

P R I N C I P L E S
OF
M O R A L
AND
P O L I T I C A L S C I E N C E ;
BEING CHIEFLY A
RETROSPECT of LECTURES delivered in the COLLEGE
of EDINBURGH.

BY ADAM FERGUSON, L.L.D. & F.R.S.E.
LATE PROFESSOR OF MORAL PHILOSOPHY.

IN TWO VOLUMES.

Huc enim pertinet, animal hoc providum, sagax, multiplex, acutum, memor, plenum rationis et consilii,
quem vocamus hominem, præclara quadam conditione generatum esse a
summo Deo. CIC. DE LEGG. Cap. VII.

V O L. II.

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C O N T E N T S

OF THE

SECOND VOLUME.

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Of Moral Law, &c.

C H A P. I.

Of the Specific Good incident to Human Nature.

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ERRATA.—VOL. II.

Page 89. l. 12. *for states read stakes.*
 Ibid. Note, *for serva read seria ; for defecerant*
r. defecerunt ; for contendant r. contendunt.
 92. l. 27. *for fake read the fake.*
 168. Note, *for astringimus read astringimur.*
 199. l. penult. *for relation read relations.*
 224. l. 24. *for sentiment read sentiments.*
 269. l. penult. *for that read like that.*
 294. l. 20. *for their read there.*
 301. l. antipenult. *for effect read affect.*

Page 319. Note, at bottom, *dele Rex vixit male.*
 364. l. 15. *for principle read principal.*
 387. l. 12. *for will read well.*
 414. l. 6. *for I read It.*
 442. l. 26. *dele being.*
 448. l. 21. *dele 2d, Or.*
 468. l. 10. *dele not, for as to read not to.*
 469. l. 15. *dele is.*
 493. l. 12. *for ties read duties.*
 509. l. 25. *for man read human.*

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P R I N C I P L E S
OF
MORAL AND POLITICAL SCIENCE.

P A R T II.

Of Moral Law, or the Distinction of Good and Evil,
and its Systematic Applications.

C H A P. I.

OF THE SPECIFIC GOOD INCIDENT TO HUMAN NATURE.

S E C T I O N I.

Introduction.

T HE distinction of physical and moral science has been stated in the former part of this work; the one being occupied in solving questions of theory or fact, the other in solving questions of right: But, notwithstanding the proposed method required that questions of fact, or mere explanation, should be considered a-

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part from questions of estimation and choice; yet the good of which man is susceptible, and the evil to which he is exposed, having frequently occurred, as facts of the greatest importance relating to him; and the advancement of moral science itself having made a considerable article in the history of his pursuits and attainments; it was impossible not to touch upon these subjects, in laying the foundation of this more particular discussion, in which we are now to proceed.

Having, however, in the former part, chiefly attended to the facts constituent of man's actual state, and serving to form his capacity and give intimation of his future prospects; we are now, in the continuation of our method, come to a point at which the distinction of good and evil, and its applications, are the direct and immediate objects of our inquiry. But as in the past, where the statement of fact was the principal object, we could not always withhold some view to its consequence; so now, although our principal object is to pursue the inference to be drawn from facts already stated; yet, as we may, by referring to former observations, sometimes incur the charge of repetition; it is hoped that the favour, due to a subject so important, may plead in excuse of the necessary references, even if they should be repeated.

Science, in every application of the term, implies the knowledge of some one or more general principles with their applications, whether in directing the will, or in explaining appearances, and connecting together our conceptions of things.

The specific principle of moral science is some general expression of what is good, and fit to determine the choice of moral agents in the detail of their conduct.

To investigate such a principle relating to man, it will be necessary to recollect what is known of himself ; and of the situation in which he is placed. Our information is to be collected from his experience of what is agreeable or disagreeable to him, and the result will amount to a choice of that, on which he is chiefly to rely for his happiness, and to a caution against that, of which he is chiefly to beware as leading to misery.

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These first and principal points of choice or rejection being fixed, the lines of moral wisdom and precept will flow from them in every direction, whether leading to the discernment of personal qualities, the foundations of law, manners, or political establishments.

The distinction of good and evil originates in the capacity of enjoyment and suffering. Inasmuch that, without the intervention of mind, or some feeling nature, all the varieties of matter and form besides, would be indifferent. Good may be defined, that which being enjoyed constitutes happiness ; and evil, that which being incurred constitutes misery.

Philosophers of old employed themselves chiefly in search of a supreme good ; and the term was familiar in the language of their times. We are told of two principal opinions which were entertained on this subject. One, that pleasure, another, that virtue was the chief good. But as the patrons of the first could not propose to assert, that all pleasures were equal, no more could the other mean, that virtue was not a pleasure. They were agreed indeed in the general assertion, that what they termed virtue was the only secure and true source of enjoyment ; but they describ-

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ed their virtues differently. Though to both it was a state of tranquility and exemption from fear and sorrow, this exemption was supposed by the one to be obtained by a seclusion from care, and by indifference to all the concerns of mankind, whether private or public. By the other, virtue was supposed to consist in the affectionate performance of every good office towards their fellow creatures, and in full resignation to providence for every thing independent of their own choice. Their different schemes of divinity clearly pointed out their opposite plans of morality also. Both admitted the existence of God. But to one the deity was a retired essence enjoying itself, and far removed from any work of creation or providence*.

The other considered deity as the intelligent principle of existence and of order in the universe, from whom all intelligence proceeds, and to whom all intelligence will return; whose power is the irresistible energy of goodness and wisdom, ever present and ever active; bestowing on man the faculty of intelligence, and the freedom of choice, that he may learn, in acting for the general good, to imitate the divine nature; and that, in respect to events independent of his will, he may acquiesce in the determinations of providence. "How great is the privilege of man," says Antoninus, "to have it in his power to do what God will approve, and "to receive with complacency whatever God shall ordain."

In conformity with these principles, one sect recommended seclusion

* *Omnis enim, per se, divum natura, necesse 'st
Immortali ævo summa cum pace fruatur,
Semota ab nostris rebus, sejunctaque longe;
Nam privata dolore omni, privata periculis,
Ipfa suis pollens opibus, nihil indiga nostri,
Nec bene promeritis capitur nec tangitur ira.*

clusion from all the cares of family or state. The other recommended an active part in all the concerns of our fellow-creatures, and the steady exertion of a mind, benevolent, courageous, and temperate. Here the sects essentially differed, not in words, as is sometimes alledged, but in the views which they entertained of a plan for the conduct of human life and the choice of their actions. The Epicurean was a deserter from the cause of his fellow-creatures, and might justly be reckoned a traitor to the community of nature, of mankind, and even of his country, to which he owed his protection.

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The Stoic enlisted himself, as a willing instrument in the hand of God, for the good of his fellow-creatures. For himself, the cares and attentions which this object required, were his pleasures; and the continued exertion of a beneficent affection, his welfare and his prosperity.

It is by no means indifferent what opinions we shall entertain on these subjects. Good and evil are known or apprehended by us under a variety of denominations. And happiness or misery are supposed to be constituted by the distribution of these in our lot. If the things we term good be inconsistent one with another, it is surely of consequence to the most unthinking mind to ascertain where the preference is due; and, when this point is determined, to avoid the distraction of a doubtful choice on any particular occasion. If, on the contrary, the objects stated under the denomination of good, when well understood, coincide in their effects, it is reasonable that we trace them to this point of coincidence, and rest the project of happiness or safety, not on any partial and exclusive selection; but on the proper use and conduct of the whole.

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The terms in common use under which we distinguish the subjects of desire and aversion, are chiefly *Pleasure* and *Pain*, *Beauty* and *Deformity*, *Excellence* and *Defect*, *Virtue* and *Vice*, *Prosperity* and *Adversity*; or, in a form more comprehensive, and arising from the distribution of these, *Happiness* and *Misery*. Under one or other of these titles we shall probably find every constituent of good or of evil; and, in following the track of ordinary experience or reason, arrive at a final decision of what is best for mankind, and establish a principle of estimation and choice, upon which to determine every question of right or propriety relating to the affairs of men.

SECTION

SECTION II.

Of Pleasure and Pain, or Things agreeable and disagreeable in general.

UNDER this title will occur to be mentioned pleasures and pains of mere sense, of affection and passion, of active exertion and conduct.

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Pleasure and pain, for the most part, are co-relative terms: Where any circumstance is pleasant, the privation of it is painful; and, conversely, where any circumstance is painful, exemption from it is pleasant. Upon this account, when we have specified the one, it will not always be necessary to mention the other.

In the actual arrangements of nature, throughout the animal kingdom, things salutary are pleasant, and things pernicious are painful. Pleasure is made an inducement to the performance of those functions, which are required to preservation or well being; and pain is employed as a warning to avoid the occasions of destruction or harm.

When

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When a certain end is obtained in the use of a pleasure, it is observed that the inducement to any farther exertion in that particular instance is withdrawn; and attempts to prolong or continue the gratification, as they might be pernicious, so they are attended not only with satiety, but even with disgust and pain.

As in this wise and beneficent institution of nature, to preserve her works, there are pleasures attending all the ordinary and salutary functions of animal life, there are pains, also, which attend whatever is pernicious to the animal frame; and the final cause or purpose is evidently the same in both; that is, by inviting to what is salutary, by deterring from what is pernicious, to excite the languid animal to what is useful; and to rouse the suffering animal to such efforts as may be effectual to remove the occasion of harm; and, in either way, to consult his safety.

For this purpose, although the occasions of pain, like the occasions of pleasure, may be temporary, yet, as it is necessary that the pain should continue until the cause of harm be removed, or even that the pain should increase while the cause of harm is increasing, or the danger to animal life is augmented; there appears to be a sufficient reason why sufferings, incident to the animal frame, should in many instances be of longer duration, and greater intensity, than the corresponding enjoyments or pleasures which are destined to recommend the ordinary functions of life.

It appears, therefore, with respect to animals in general, that the purpose of nature in the distribution of sensation, is to provide for the safety of the individual, and the succession of the species, at the same time that an establishment is made for enjoyment

ment, so far as is consistent with these ends. In this distribution, there is a present restraint from what would be painful in the future; and a present direction to what may contribute to future enjoyment, as well as safety: And there is a sufficient reward for the performance of functions which enter into the course of a regular and well ordered life. The individual, in general, is kindly amused and gratified in the act of preserving himself and continuing his species, and the gratification or amusement, in the case of most animals, is fitted to occupy a considerable part in the duration of life.

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Man is susceptible of animal pleasure and pain, in a manner which argues the purpose of nature respecting him, to be nearly the same as with respect to other beings endowed with life. He also is destined to do what is necessary for his preservation: but the mere gratifications of appetite which serve to obtain this purpose, are not fitted to occupy an equal portion of his time; and more is left, in his case, to the operation of principles in which he stands distinguished from other parts of the animal kingdom. When his preservation is secured, the life he preserves still requires to be otherwise occupied. Like the other animals, he enjoys his food, the supply of his wants, and the gratification of various appetites. But no one ever thought of prolonging the gratifications of hunger, for instance, so as to pass a life of enjoyment at table, as some animals appear to do in the use of food, at their stall or their pasture.

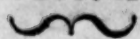
If man were not too proud for such a choice, nature has not qualified him to persist in it. The pleasures of sense are merely occasional and temporary. They are, in their nature also, mixed and alloyed with pain. Animals are to be deterred

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from what is hurtful, as well as allured to what is salutary; and man himself, with all his knowledge of the end in view, must be prompted, in the detail of his actions, by the admonitions of pain as well as pleasure.

The feeling, which prepares the animal sense to be gratified in the supply of a want, is more or less a feeling of pain; and enjoyment is a mere relief from this feeling. Attempts to prolong the gratification beyond its natural period, bring a new species of pain, in the effect of satiety. Still more, excess of any kind is productive of suffering and harm: So that this source of enjoyment is ever impure, either in respect to the pain that precedes it, or in respect to the disgust and harm that may follow from the unguarded pursuit of enjoyment.

Whilst men, therefore, may admire the order of nature in this particular, and comply with it as an article of good sense and propriety, few, who are engaged in the specific pursuits of human life, look upon the pleasures of mere sense as matters of principal regard. Most men become comparatively indifferent to their personal accommodations, in proportion as they are engaged in business, either private or public; or in the view of objects that strongly affect them, in behalf of their own honour and interest, or in the cause of their family, their friend, or their country.

To the other animals, as well as to man, mere exercise is grateful; and the efforts they are led to make for the preservation of life are, on this account, in part, constituent of their ordinary pleasures. The ends, to which their active pursuits are directed, are subjects of hope; and give joy in the prospect, as well as in the attainment or use. And, although the corresponding apprehensions,

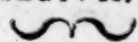
hensions of ills to be feared, may anticipate the sufferings of sorrow, yet the system of animal life, in general, is so arranged, that, in the exertions required to self-preservation, the pleasurable prevail over the painful; and the general aspect of living nature is expressive of alacrity and joy.

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The powers of reflection in the mind of man, that enable him to anticipate the future, as well as to recal the past, qualify him to enjoy, or expose him to suffer, from this quarter, in a much higher degree than any of the other animals. Hence arise the variety of his passions, hope and fear, joy and grief. The foundation of hope is the expectation of some good that is future, and therefore probably in some degree an occasion of fear also. Grief has reference to some evil endured; fear, to an evil apprehended. Either is a painful state of the mind, in actual distress, or in anxiety and solicitude, disqualified for any present enjoyment beyond what mere hope can supply: But, with respect to the objects, whether of hope or of fear, the most agreeable state of the mind is alacrity in the reasonable exertions they suggest, and in the use of means to obtain or avoid them, which providence has put in our power.

Security is, of all circumstances, the most conducive to pleasure. Hence the value which *possession* acquires in passing into *property*, that is, in being secured: and the most agreeable state of the mind, in this respect, is the consciousness of a blessing of which neither chance nor caprice can deprive us. A blessing which consists alone in the chearful performance of what we are entrusted to do, and in contentment with the scene of action in which we are placed.

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Man has much of his employment, as well as the gratifications of sense furnished to him by the concerns of his animal life. In these consist that complicated object which he terms his interest; and from thence arise many of the occasions on which he is employed for himself, for his country, and his friend.

The materials, which he strives to amass for his own use, serve him also as the means of beneficence to his fellow creatures. In his intelligent or distinctive character, his occupations multiply and vary indefinitely; and the mere supplies of animal life are to him of less consequence, than the exertions of mind in which they engage him. In these his ingenuity and his affections are agreeably engaged in forming his designs, in recollecting his experience of the past, in conducting the present, and in preparing for the future.

It has been well observed, that every exercise of the human faculties, into which malice or fear do not enter as motives, and every exercise which is not carried to some pernicious extreme of fatigue, is in its own nature agreeable \*.

“The necessity of action,” says the Rambler, “is not only demonstrable from the fabric of the body, but evident from observation of the universal practice of mankind †, who, for the preservation of health,” (he should have said for pleasure,) “in those whose rank and wealth exempts them from the necessity of lucrative labour, have invented sports and diversions, though not of equal use to the world with manual trades, yet of

\* V. Theorie des Sentimens Agreeable.

† See Rambler No. 36.

“ of equal fatigue to those who practise them ; and differing on-  
 “ ly from the drudgery of the husbandman or manufacturer,  
 “ as they are acts of choice, and therefore performed without the  
 “ painful sense of compulsion. The huntsman rises early, pur-  
 “ sues his game through all the dangers and obstructions of the  
 “ chase, swims rivers, and scales precipices, till he returns home  
 “ no less harrassed than the soldier, and has perhaps incurred  
 “ sometimes as great hazard of wounds or death ; yet he has no  
 “ motive to incite his ardour ; he is neither subject to the com-  
 “ mands of a general, nor dreads any penalties for neglect and  
 “ disobedience ; he has neither profit nor honour to expect from  
 “ his perils and his conquests ; but toils without the hope of mu-  
 “ ral or civic garlands, and must content himself with the praise  
 “ of his tenants or companions.”

“ But, such is the constitution of man,” continues the same  
 author, “ that labour may be stiled its own reward ; nor will any  
 “ external incitements be requisite, if it be considered how much  
 “ happiness is gained, and how much misery is escaped by fre-  
 “ quent and violent agitation of the body.”

This author, in other parts of his work, or throughout the ge-  
 neral strain of the whole, represents human life as a string of il-  
 lusions, a transition from hope to hope, never from enjoyment to  
 enjoyment : It is pleasant, therefore, to find him acknowledge a  
 source of present enjoyment, even amidst drudgery, toil, and dan-  
 ger, so frequently stated by himself as constituents of misery :  
 It is pleasant to find him acknowledge, that, even labour is its  
 own reward ; and, in this step at least, lead the way to an opini-  
 on, that all the exercises of a manly, and beneficent mind, though  
 a species of labour, may also be their own reward, and not the  
 less

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less a reward to him who labours in them, that he may be acting under the influence of an affection, also, in its own nature complacent and agreeable.

Even the vulgar are aware that to be happy, they must be employed, or have something to do; and it is obvious to the most superficial observer; that life is agreeable chiefly to those, who, being engaged in some just and honourable pursuit, in any laudable profession, public trust, or employment, do not embarrass themselves with any thing beyond the discharge of their duty. In contrast with these, we may place the examples of others who are ever so intent on the future as to neglect the present. Who shrink from the duties of their station, under the notion of trouble, who decline any concern in the welfare of others, as an avocation from the care of their own. They would have something to do: But seem to think that their occupations should approach the nearest that is possible to idleness. They fly from business; for it seems to be a task. They do not consider how they may benefit others; for, that were to neglect themselves: but they swim rivers and scale precipices, because they are at liberty to do so, and because they can afford the expence of horses and dogs.

Living natures in general are distinguished by the exertions they are qualified and disposed to make. Man, as we observed, stands foremost in this distinction. His existence consists in a series of active exertions, and he enjoys the exercise of his faculties in the conduct of affairs, and in business, no less than in what he is pleased to term amusement and pastime.

Benevolence is an active principle, and an agreeable state of the mind, rendering the presence and welfare of other men an occasion

occasion of pleasure, and fitting the individual to his relation in fraternity of natures like his own. The pleasures of society are the exercises of a social nature. They mix with the functions of animal life, and are, in reality, the principal cause of many enjoyments which are supposed to result from the gratifications of sense. The pleasures of the table, for instance, are more those of society than of gratified appetite. Whence it is else that the meal, when taken alone is a mere supply of necessity ; but in company, and in the gaiety of sociable intercourse, is of so much consideration among the enjoyments of life?

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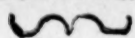


To be employed is agreeable ; but employments differ no less than sensations. The employments of a mild and benevolent affection are placid and happy. Those of a rancorous and malicious temper are convulsive and wretched.

Many of the objects which we endeavour to obtain in human life, like the game that is pursued by the hunter, are chiefly to be valued for the chase they occasion. But it is not, therefore, indifferent on what object we bestow our labour. As things visionary or impracticable lead to certain mortification and disappointment, so things depending on chance, or the will of other men, if conceived to be necessary, expose to like disappointment ; or, under the apprehension of adverse events, are the occasions of continual anxiety, dependence, and fear.

Things that are not of themselves of any absolute value, but exist merely in being compared with what is possessed by other men, as *dominion*, *precedence*, and *rank*, *renown*, and *celebrity* ; even *riches* and *fortune*, beyond what is necessary to subsistence and well-being, engage us in pursuits that are not only precarious in the event, but in their nature subjects of competition, jealousy

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jealousy, envy and malice. The operation of parties in these pursuits are mutual impediment and mutual offence; and the efforts of one to better himself is considered as an act of hostility, or carries the aspect and the infection of malice to others.

Malice is known to be a state of extreme suffering or pain; it operates abroad in pernicious effects, and appears on the countenance in peculiar features of deformity and horror. It has perhaps no other source in the human mind, than this unhappy choice of an object, in which the prosperity and success of one is disappointment and detriment to another. Or if this unhappy choice be sufficient to account for malice, we are forbidden by reason to look for any other cause. It is a maxim in reason, that no more causes are to be assigned, than exist in nature, and are sufficient to account for the phenomena \*.

We may therefore venture to assume, that malice is no where instinctive, but must have proceeded originally upon some pre-conceived notion of competition, of harm to one from the welfare of another, of provocation or fear; and is therefore, for the most part, entertained in the form either of *Envy*, *Revenge*, or *Jealousy*.

These are the great sources of misery to mankind. *Envy* is pain inflicted by another's good. *Revenge* is pain to be removed or alleviated, only by another's suffering. And *Jealousy* is pain suffered under the apprehension of what another may do or may have done: All of them susceptible of unequal degrees; but in the slightest degree unhappy, and in the highest degree constitu-

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\* Vide Newtoni Principia, lib. 3. ab initio.

ent of extreme virulence and of anguish, to which the presence and welfare of a fellow creature alone, may give occasion; and, from which a being, who is doomed to society, has no means of escape, but by removing the evil of his own disposition.

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Besides the propensity of man to join the herd of his species, a disposition, which operates even with the malevolent, and is common to all the gregarious animals; the candid have, in their minds, a principle of affection, and love; a capacity of goodness by which they are disposed or qualified, in different forms, to make a common cause with their fellow-creatures. The distress of another is to them an occasion of commiseration or pity; his welfare an occasion of complacency and joy. To the sociable nature of man, the joint exertions or struggles of numbers in the same cause together, bring into actual exertion, the highest powers of enjoyment as well as of action.

Commiseration or pity, being a participation of distress, implies suffering, and yet is known to be agreeable; inasmuch, that the humane do not wish to be relieved of their pain otherwise than by the relief they can give to those they commiserate or pity. They regret the suffering of others; but enjoy their own sympathetic emotions; willingly shed the tears of compassion, and in this feel, with the poet, that,

*The broadest mirth unfeeling folly wears,  
Is not so sweet as virtue's very tears.*

Pity is prevented, in particular circumstances, by the prevalence of other passions, whether *indignation*, *resentment*, or *fear*. *Indignation* hardens the heart against those who suffer for any  
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flagrant crime; *resentment* against those who have given provocation; and *fear*, though not a disposition to act offensively, yet hardens the heart against the feelings of candour or pity, more perhaps than any other passion: Hence, among the evils of cowardice we may justly reckon cruelty to the vanquished, no less than inability to contend with those that resist, or who alarm our fears.

Commiseration or pity, in the candid mind, is bestowed indiscriminately and universally on the innocent who suffers: But benevolence, in its other forms, is particular in its choice, and implies predilection for an object; whether the companion with whom we are familiar, the friend we love, or the country to the service of which we are devoted.

An agreeable intercourse may have place, even with persons unknown; or is easily formed, amidst the first or most general appearances of intelligence and fairness of disposition. The manners of the candid, even among strangers, constitute a mutual exchange of good offices, and in human life are an ordinary and continual source of agreeable sentiments.

In friendship, benevolence is the engagement of choice, and renders every interest mutual to the parties concerned. The affection in which it consists, and the confidence it inspires, constitute a principal source of security and pleasure.

Over and above these operations of a benevolent affection, man is qualified to entertain the same disposition, in a form yet more comprehensive. The collective body of men in a country or nation is, to its own members, an object of the most ardent affection.

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While the citizen reveres the institutions and the laws of his country, while he rejoices in its prosperity, and laments the calamity or distress which befalls it, he is often made to forget himself, and to sacrifice his own interest or safety as an individual, to that of the community in which he is included. Interest is frequently supposed to be the ruling passion of mankind; yet this sacrifice of interest and of life, to the objects of public affection, is frequently made; and, under national establishments that are happily constituted, is not above the reach of ordinary men.

The general tendency of benevolence, like that of the animal propensities, is to preserve the human race, and to render man useful to his fellow creatures; but, while the selfish principles operate to the preservation of the whole, by preserving or consulting the safety of individuals apart, benevolence forms a general band of connection, and is at once a common source of enjoyment and pleasure to many. It renders the participation of other men, in the favours of providence, an occasion of satisfaction and joy. While it seems to render the humane a servant to the distressed; the affectionate devoted to the interest of his friend and his country; it renders this service, and this devotion also, a principal source of enjoyment to himself: differing from the gratifications to which any mere animal propensity is competent, in being exempt from satiety, and in being fitted, by occupying indefinite portions of time, to fill up the duration of human life, and to become not only the spring of particular and occasional action, but the source and constituent of felicity to those who act. So much that, in the course of a sociable and beneficent life, and in the offices of private friendship, or of public station, a person may occupy with satisfaction every moment that can be spared from the necessities of his own condition.

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But, over and above the pleasurable or painful state of our feelings, which arise from the proper or improper discharge of our animal functions; from the purpose to which we employ our faculties, and the manner in which we are affected towards our fellow-creatures; these very circumstances become, by reflection, the source of additional enjoyment or suffering. Consciousness of propriety, in the conduct of our natural propensities; attainments of knowledge, or intellectual ability; integrity, candour, and good-will to our fellow-creatures, are sources of the purest satisfaction and pleasure. The consciousness of brutality, folly, cowardice, malice, or guilt, on the contrary, is constituent of extreme suffering, in the feelings of shame, and remorse.

It is supremely agreeable to perceive, in the works of nature, the marks or expressions of wisdom and goodness, on which we may rely for the happy disposal of all things: And we may conclude, from the whole of these particulars, that the preferable pleasures of human life consist in sobriety, benignity of temper, or good will to mankind, and beneficent actions, with a perfect confidence in the wisdom and goodness of Providence.

The contemplation of beauty and excellence, in whatever subject, is matter of delight, and forms an agreeable state of the mind. The obtrusion of ugliness or defect is of a contrary nature: And these are sources of enjoyment and suffering peculiar to man. He alone, among the living natures known to us, appears sensible to the distinctions of beauty and deformity, of excellence or defect; and he alone, for ought we know, apprehends any gradation of worth in the scale of being. He alone applies the canons of excellence and defect, of merit and demerit, to himself, and to his fellow-creatures; finding a most agreeable state of his mind in  
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the consciousness of integrity and justice, or the most painful and distressing reflections in the consciousness of wickedness, debasement, and folly. Complacency and peace of conscience are expressions of the one; shame, remorse, and despair, are expressions of the other.

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The fool may enjoy his folly, and the madman may enjoy his frenzy; but no one will congratulate the persons who are so affected with pleasure. The enjoyments of human nature require the warrants of reason and truth; and no person, in his senses, can be reconciled to a state, in which he knows his own character to be marked with deformity, meanness, or vice, nor think that he can be truly happy, in the absence of every good quality which can be required to adorn or perfect his nature.

The foundations of a pleasure, so essential to happiness, merit a separate consideration in the following sections.

SECTION

## S E C T I O N III.

*Of Beauty and Deformity, Excellence and Defect.*

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IN the rational nature of man, there are principles which do not terminate merely in sensibility to pleasure and pain, or in mere active exertions; but consist in a kind of censorial inspection, over the general tenor of enjoyments and actions; serving to distinguish, among pleasures, the elegant and beautiful from the inelegant and deformed; and, among specimens of existence, the perfect or excellent, from the defective or imperfect. Such is the discriminating power of intelligence, by which the qualities of things are estimated; by which unequal measures of worth are conceived, and the gradations of excellence assigned in the scale of being.

In the exercise of these reflex and censorial powers, there is great enjoyment and suffering, according as the objects of them are happily or miserably distributed to ourselves or others. *Disgust, indignation, remorse, and shame*, are among the pains of which

which they render us susceptible; *delight, esteem, approbation, confidence, love, and peace of mind and of conscience*, are among their gratifications, or happy effects.

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In the discernment of external objects, there arises a sentiment, which may be expressed in terms of praise or blame, of estimation or contempt; and which frequently constitutes, or sensibly modifies, the general affection of the mind, in respect to the distinction of good and evil; for, as good is pleasant, so, also in many instances, is it estimable: As evil is painful, so also is it, in many instances, vile and contemptible.

Of these sentiments, the specific occasions or objects are termed beauty and deformity, excellence and defect.

To perceive beauty or excellence, is to admire or esteem: And, least these expressions, which are applicable to subjects of the highest nature, should appear too strong, when applied to matters of inferior consideration, in which some degree of beauty nevertheless may be admitted; let it be remembered, that it is the species of sentiment, not any measure of the emotion, or degree of merit in its object, which we are now about to consider.

Admiration and esteem, like benevolence and love, are agreeable sentiments; so much, that, to admire or esteem and to be pleased with an object, are expressions often mutually substituted one for the other.

We are pleased with beauty and excellence; we are displeased with deformity and defect: But all that pleases is not beautiful or excellent; nor all that displeases, deformed or defective. We  
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know not, however, frequently, how otherwise to express the pleasure we take in any subject, than by pronouncing it excellent or beautiful; nor how to express the displeasure we feel, otherwise than by pronouncing the cause of it, ugly or defective. The wonderful organ of human language does not always serve the purpose of discrimination, even where it is of the most real importance to state the subjects of consideration apart.

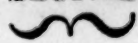
We may, nevertheless, endeavour, in this place, to consider beauty and excellence, as distinguishable from other causes of pleasure, by the specific accompaniment of esteem or preference, to which, even if no one should admire, we conceive the object entitled; and to consider deformity and defect as distinguishable from other causes of pain by a peculiar sentiment of disapprobation or contempt; of which we conceive them to be proper objects, even if the world should not perceive the defect or the deformity.

These specific sentiments, differing either in respect to the occasion on which they arise, or the degrees of intensity with which they are felt, have, in every language, a variety of appellations or names. In our language, *approbation* and *disapprobation*, *esteem* or *admiration*, opposed to *indifference*, *disgust*, or *contempt*, make a part of the terms by which we express them.

The ingenious author of some Essays on the Nature and Principles of Taste, has observed, that material subjects give sensation and perception of reality; but no emotion or sentiment of beauty or deformity, except so far as they are associated with some object of affection, whether character or disposition of mind; cheerfulness or melancholy, wisdom, goodness, or power.

If a subject please, in consequence of its being associated with some object of esteem, the delight it affords is properly enough classed with the species of sentiment which we are now considering; but if it be associated only with utility, safety, or joy, it may please in consequence of this association: But the compound so made up is not any more a subject of admiration or esteem, than is the pleasurable circumstance by which it is recommended.

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Attempts have been made to resolve this principle of esteem or admiration into some of the other principles or forms of proceeding, equally familiar in the operations of the human mind; and consequently, to account for the use of these terms, without the necessity of supposing that there is in nature any distinction of excellence, or in us any distinctive faculty by which it is known. And it should follow, from any theory of this sort, that, in reality, we mistake for esteem some other operation or affection of mind: but, in such substitutions of one species of affection for another, it does not appear that any advantage is gained. We neither can resolve the sentiment of admiration or esteem into any thing better known than itself, nor the good qualities of mind, into any thing that, being more in our power, may shew us a readier way to the improvement of our nature.

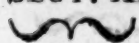
We shall, therefore, be contented with giving to the sentiments which beauty or excellence occasions, some one of their ordinary names of preference, whether delight, approbation, or esteem. The subjects of beauty and excellence themselves, in the mean

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time, though thus agreeing in the class of sentiments to which they give occasion, seem to be disjoined in nature ; or by us, at least, to be conceived apart. Beauty is sometimes said to cover defects ; and excellent qualities are said to be concealed under apparent deformities. Beauty frequently strikes, from the first and more obvious aspect of things ; excellence is to be collected by observation of their essential qualities. Every person, that enters a room, presents at once the beauty of which he is possessed. His excellence, in the mean time, or essential good qualities, are to be known only upon farther acquaintance. These epithets, however, in proportion as the subjects of them come to be understood, gradually approach in their applications, and seem at last to unite in the same thing. When apparent beauty is found to conceal defects, it ceases to be admired, or even incurs contempt. When apparent deformities are found to conceal essential good qualities, we not only cease to condemn, but, from a principle of retributive justice, are the more inclined in the sequel to admire that we at first overlooked the value of our object, whether person or thing : So that the progress of intelligence in the discernment of excellence and beauty seems to terminate in a point, which unites these epithets into one general ground of preference ; and which, in that case, we shall perhaps be more inclined to express in the terms of perfection and excellence, than in that of elegance or beauty, which still carry a reference to first and external appearances.

In the system of nature, there is a beauty that belongs to the mechanical, to the vegetable, the animal, and intellectual kingdoms.

In the mechanical kingdom, the principal, if not the sole constituent

stituent of beauty, as the *Pere Buffier* has well observed, is order; or, as the same author farther explains this term, the apt combination of parts, whether simultaneous or successive, for the attainment of a beneficent purpose.

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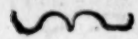
Mere matter, though perceivable by sense, is in itself indifferent to any affection of the mind, except so far as some object of affection is associated with it. With an apt combination of parts for a beneficent purpose, are associated the supreme objects of admiration, love, and respect; viz. wisdom, goodness, and power. The association is not casual, or derived from mere analogy or likeness, but from the essential and inseparable relation of cause and effect.

The system of nature is sublime in respect to the might of its Author. It is beautiful, with respect to the regular fitness of parts for the attainment of their ends, and in respect to the beneficent purpose which they are fitted to serve. The latter circumstance, above all, is essential to their beauty.

The fruits of continual exertion, without the regularity that proceeds from a well-concerted design, as in the meaningless activity of children and restless animals, overturning and displacing whatever comes in their way, produces disorder, confusion, and extreme deformity: The regular tradesman shudders at their being admitted into his work-shop.

A design at the same time may be perceptible; but, if directed by folly or malice, it is an object of disgust or of reprobation, not of admiration or esteem. The figures of birds, beasts, cones, or pyramids, cut out of an evergreen, in the antiquated garden, have

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marks of design; but frivolous, and contemptible. The piece of statuary, of which we are told, in the bull of Phalaris, or in the Apiga or spouse of Nubis, may have been exquisite in the workmanship; but the design was hideous or cruel: And, as the mere indication of mind is ambiguous, the indication of perfidy and malice is horrid; beneficence alone, directed by wisdom, is supremely beautiful.

In the material system of nature, the beneficent purpose of its Author is manifest in the accommodations provided for beings distinguished by their organization, or beings endowed with life. These, in our terrestrial world, are plants, animals, and men. The elements are disposed to promote the vegetation of plants; and these to furnish their subsistence and place of abode to animals; and the whole to furnish the materials of supply, and the subjects of thought and contemplation to the living and intelligent nature of man.

In the living kingdom of animals, the same beneficent purpose, while it extends to the general system, partly terminates also in the animal himself. He is made that he may be gratified, as well as that he may gratify others; and both are essential to the excellence and beauty of his frame: For this his organization is admired, and the prosperous state of that organization is so much valued, under the denomination of health.

With respect to man, also, the beneficent purpose of nature, so far as we are yet qualified to discern it, terminates in himself; not in the individual considered apart, but in the subserviency of many to the common cause of the whole. The individual is made that he may be gratified; but his chief gratification is made

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to consist in beneficence, or a participation in the welfare of mankind. He is an active power in nature, which cannot suspend its exertions, without incurring a state of weariness, suffering, and disgust. He is a beneficent power in nature, to whom benevolence is pleasure, malevolence is pain; and who cannot willingly forsake the paths of beneficence, without incurring the chastisement of remorse. His beauty and excellence is a participation, however faintly obtained, of that wisdom and goodness which constitute the splendor and majesty of the works of God.

To perceive beauty, in any material subject, is to perceive indications of wisdom and goodness; and, if we are asked, why wisdom and goodness should be admired? we may answer, For a reason like to that for which pleasure is coveted; because in itself desirable and good. While other things are desired or esteemed on account of the pleasure they give, or the excellence they constitute, pleasure and excellence are themselves desired or esteemed, on their own account.

In the scale of natures susceptible of excellence or perfection intelligence is supreme, and wisdom and goodness are the supreme perfections of intelligent being. Their presence, when suggested by the order of nature, awakening the sentiments of admiration, are termed beautiful; but, in the mind itself to which they belong, are more properly termed its excellence, perfection, or merit. Folly and malice, on the other hand, may, in a figurative stile, be termed the deformities of mind; but are more properly referred to the predicaments of defect, guilt, and demerit.

From the whole, there is reason to believe, that beauty when  
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real may be resolved into excellence and, that deformity may be resolved into defect; the one an essential distinction of good, and the other of evil: That both, or either, can have existence in mind alone; so that, in this question, man is doubly interested: He is concerned in the existence of excellence or beauty, as presenting him with an agreeable object of contemplation and love; but more especially as constituting an admirable state or condition of nature, attainable by himself.

In the human figure, there is one beauty of form in the structure of its organs, or in the sound state or configuration of the whole person, indicating exquisite design, wisdom, and goodness, of the Maker.

There is another beauty, consisting in the aspect and expression of the mind, that occupies and actuates this created frame, indicating good sense, equanimity, and benevolence of temper.

In both, it is the beauty of mind that strikes through the form of a work, or the aspect of a person: The wisdom and goodness of the Creator, in the one; or the good meaning and temper of his creature, in the other.

Where one of these beauties exists, in any degree, the other may be sensibly wanting. Thus, we are familiar with instances, in which personal defects are compensated with a favourable expression and benevolence of aspect; or instances in which natural advantages are deformed by an aspect of vanity, malice, or folly.

The antient artists, in the features of Medusa, though a Fury,  
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feigned to themselves the most perfect form; or supposed her countenance to be cast in the most exquisite mold of natural beauty; but of an aspect, derived from the temper within, so terrific and hideous, as to appal the most daring, and even to turn those on whom she looked into stone.

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Mind, we have reason to believe, predominates in nature; so that, in a comparative survey of all that exists, whatever is not mind would be as nothing.

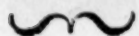
It is *heat*, we are told, that gives spring and agitation to the mechanical world. Remove this ingredient, and all matter would freeze into one solid mass, and become the formless repository of inertia, darkness, and death.

In the same manner, and with still greater confidence, may we not say, it is mind that strikes out from the forms of body, in the lovely aspects of excellence and beauty? And it is the diversity of operating minds, in such forms of matter, that gives the distinction of beauty and deformity to subjects otherwise, in their own nature, indifferent.

What were millions, and myriads of millions, of corpuscular particles assembled in the body of the sun, without the benignant power that renders him the source of heat and of light to surrounding worlds? What were these worlds without the beneficent impulse that gives them motion, and retains them in their orbits, at a proper distance from the source of light and of heat? And what could avail their motions, without this combination of elements on their globes, that fit them for the residence of living natures?

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The same thing, multiplied through innumerable systems, owes its magnificence to the greatness of might and of thought, that acts in the formation and conduct of such boundless scenes of existence.

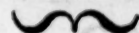
The distinction of excellence and defect, so obvious to man in the contemplation of his own nature, and so easily transferred by association to any of his works or external circumstances, is the radical principle of elevation or progression in the human mind, to which there is ever presented, as an object of desire, something higher and better than is possessed at present. This principle, in all its forms, proceeds upon some pre-conceived notion of absolute or comparative excellence, in respect to which the mind is never disposed to acquiesce in its present attainment. Birth, fortune, power, and other constituents of rank, are the circumstances in which the vulgar of every condition strive to excel one another. The dwelling, the furniture, the equipage, and the table of the rich, flatter his vanity more than his sense of pleasure; and stir the emulation more than the appetite of those who admire his condition.

Whoever would govern mankind, if he can command their conception of what is excellent, or lead them to associate honour with the task he would have them to perform, will find no farther difficulty, in procuring from them every sacrifice of pleasure, interest, or safety. This, as we have formerly observed, is the honest man's integrity, and the gentleman's honour, which neither will forego to preserve his fortune or his life. It is the soldier's glory, which renders danger and hardship agreeable; it is the martyr's crown, which renders extreme suffering, and the prospect of death, an occasion of triumph and joy.

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On a subject of so great importance, and of such powerful effects in human life, it behoves us to examine our opinions, and to be well founded in the conceptions, to which we thus surrender and deliver up all the other powers of our nature. If there be an excellence or beauty, specific to man, we may presume that, in the contemplation and possession of it, his supreme good, the most agreeable state of his nature, and the happiest course of his life is likely to consist.

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##### *Of Virtue and Vice.*

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When, in the manner of last section, we have resolved the excellence and beauty of this created frame into the wisdom and goodness of God; and return from this contemplation of nature to consider, what is the specific excellence of man; we must recognize in him at once a constitution or form received from his Maker, and together with the gifts of intelligence and free will, a personage and character to be ascribed to himself. In respect to either, he is distinguished in nothing so much as in this power and disposition to perceive, with delight, an intelligent and beneficent Author in the system of things around him. Were he thus to judge of any human production, his perception of beauty in the work would argue some participation in the genius of its Author. May we not therefore, conceive, that his admiration of what appears in the universe of God, implies some qualification to participate in the godlike principles of beneficence and wisdom. In this system, of which he is a part, the measures of providence are taken, and the design is carried into execution; he too is destined to act: But when we consider the magnitude of  

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this system, and in how many ways, of which he cannot trace any tendency to the purpose of universal good, he himself may be affected, his concurrence in the design is likely to be merely passive, or so far only as to make him bear with complacency what the general order requires, rather than to call upon him for any active exertion directed to a purpose so far extended beyond his comprehension.

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Even when we consider the world of men and animals, how far extended beyond the reach of any active interposition of the individual for its general good, we must suppose that the character of goodness, applicable to man, in respect to this object also, consists in pious resignation to the will of God; or, at most in perfect good will to mankind, in every instance in which the active power of an individual can apply. Fortunately for him, when he acts in particular instances, for his friend, his neighbour, his country, or for any of the human race, there occurs, an occasion to practise and to promote that mutual affection, fidelity, justice, and humanity, which in fact are a common blessing to mankind; inasmuch, that for him to adopt and to communicate the effect of these characters, is to act for the good of his fellow-creatures; and, so far he becomes an able and a willing instrument in the hand of God for the beneficent ends of his providence.

The merit of this character, however, is more a subject of consciousness, or intuitive judgement, than of discussion or reasoning; and they who are, in common life, most decided in their choice of good actions, proceed upon the ground of their affections and sentiments, more than upon any information derived by investigation or research. In attempts at science, however, we must descend to particulars, and endeavour to collect, by induction from the

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phenomena of that nature we are considering, what may be its destination, and what the standard by which its worth is to be estimated.

Among subjects organized, we have already observed that man is distinguished as living and active; among the living and active, he is distinguished as intelligent; or endowed with powers of discernment, apprised of the distinction of good and evil, and invested with freedom of choice. Among the gregarious animals, he is distinguished as associating and political, and conscious of his station as a member in the community of his fellow creatures. The order of nature itself is in a certain degree manifest to him; he is fitted to hold communication with its Author, to apprehend his will, and to become a willing instrument in promoting the ends of his government.

In striving to conceive the destination of such a being, we may with great confidence reject the idea of its being limited to the preservation of mere animal life, or even, as Epicurus assumed, to the possession of mere pleasing thoughts or sensations of any sort. There is an active character to be sustained, and a part to be filled up; first, in the community of men, who are partners in the joint cause of humanity and justice. There is a world of still and living nature, in the midst of which this active being must acquit himself, with sensibility in respect to some, and with circumspection and care respecting the whole. There is a commanding order of things, to which he must accommodate himself, which he is required to study, and concerned to know; and to which, even where it exceeds his comprehension, he must with submission surrender his will.

To fill up such a part are required *skill, discernment, or knowledge, fit disposition, application, and force*: Hence the four cardinal

dinal virtues, celebrated in the schools of philosophy, *Wisdom, Justice, Temperance, and Fortitude.*

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*Wisdom* is the virtue of intelligence, or a just discernment of the considerations on which we are to rely for happiness, and the undisturbed possession of the faculties which are given for the government of life. Man, in his character of intelligent being, is active in a form, and to an extent, greatly superior to any of the other animals. Every quality of his nature is an energy, not a quiescent mode of existence; and, whatever be the limits within which he is destined to exert his faculties, within the same limits, and in the same form of active exertion, are to be found his excellencies and defects, his enjoyments and sufferings.

The lot of man is not, like that of the other animals, at once completely furnished by nature; he is invested with powers, and left to employ them for his own advantage, or that of his fellow-creatures. He merits the praise of wisdom, or he incurs the imputation of folly, according to the use which he makes of his intelligent faculties; and in this, perhaps, gives the first and most striking specimen of the excellence or defect, of which he is susceptible. His powers of conception, when well employed, lay the foundations of wisdom; when misapplied or neglected, lay the foundations of folly; and so far present him to his fellow-creatures, as an object either of esteem and respect, or of contempt and derision.

With the exception of a few determinate instincts, such as direct him on particular occasions to the means of self preservation, or such as connect the individual with his kind, man, we have observed, is left to follow the dictates of his own observation, discernment and experience.

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experience. In nonage or infancy, indeed, he is committed to the discretion of his parent; but, in the more advanced periods of life, he is committed to his own. His instincts and appetites are seldom to him, as they are to the other animals, determinate guides in the application of means to the attainment of his end, or seldom secure him in the proper choice and measure of his gratifications. When urged by hunger, though in the midst of plenty, if the fruit or species of food presented to him be new or untried, he must proceed with caution in the use of it, and examine well, before he ventures to taste; much more before he ventures to feed on viands unknown, though of the fairest appearance.

Although his gratifications, like those of the other animals, when the purpose of nature is served, frequently determine or pall on the sense; and satiety, even in his case, might be sufficient to guard him against excess; yet he is, by an error of his imagination, frequently led to exceed even these limits, and to seek for pleasure, where it is not any longer to be found, in the object of a satiated appetite. In him, therefore, the defects of instinct must be supplied by reflection; and, he is to be taught, by experience and observation alone, to distinguish the real sources of permanent happiness.

As to man, therefore, the errors of his own imagination, as well as the defects of his instinct, are occasions of evil, they are to be supplied or corrected by the proper use of his intelligent powers. And it may be asked, Are we to consider the intelligence of man as a mere substitute for the correctness of choice to which the other animals are formed by nature, and to estimate its value, by its apparent destination to do for him what instinct, and the want of imagination, have done for the brutes? This were to suppose him destined to attain,

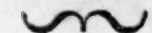
tain, by a tedious and uncertain process, that of which other animals are at once possessed by the suggestion of a specific propensity. The bee, without any other direction than this, constructs his cell upon a model which the most perfect science of mechanism cannot improve; and possesses that skill, from the first, which in the human species, many ages and successive trials are required to obtain.

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Animals, in general, whatever be their destination, are enabled to fulfil it at once. They acquiesce in their state, or enjoy its advantages, without any sense of its wants or defects. Man, at his outset, being worse provided than any other animal, is accordingly not disposed to acquiesce in his primary state. The wants or defects of his first condition seem, in the exercise of his faculties, to press him with all the force of necessity; but, after his first wants or defects are supplied, fancy succeeds to necessity; and, whatever supply he may have gained, or accommodation provided for himself, he is still urged with a desire of somewhat beyond the present attainment, and is as little disposed to acquiesce in the highest, as in the lowest state of his animal accommodation. The spur of impatience to better himself, which, in his rudest condition appears necessary to his preservation, continued on to his state of highest attainment, seems to form in him a principle of progression, of indefinite or endless extent. He is made intelligent, not merely that he may be able to procure a supply to his animal wants, but his animal wants appear to be multiplied, and his fancy rendered insatiable, that he may find an early scope for the exercise of his intellectual powers, and, by the indefinite pursuit of their ends, make that progress in knowledge, which constitutes so essential a part in the excellence or perfection, of which his mind is susceptible.

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We may thus collect the specific excellence of any nature, from its capacity, and from the direction of its progress; and that of man, in particular, from his capacity of receiving information, of improving in discernment and penetration, and from the progress he is qualified to make in these particulars. In him, the mere continuance of life is a course of observation, and repeated occasion, on which to exercise those faculties of the mind, which improve in being employed.

Man becomes powerful in the system of nature, in proportion as he becomes knowing or wise: And the species, in this particular, seems well apprised of the standard by which to ascertain its own merits or defects. Signal ability and understanding are admired, comparative incapacity, and dulness are despised. And there is, therefore, in respect to him no difficulty in collecting the grounds of esteem or contempt, whether we consider *a priori* what is suited to his destination, or attend to the reception which his qualities meet with in the estimation of his kind.

Philosophers have thought, that every subject of commendation, to which human nature is competent; every virtue and every constituent of happiness, might be comprised under the title of *wisdom*, or the excellence of intelligent being; that, on the contrary every subject of dispraise or contempt, every vice and every character of misery, might be comprised under the title of *folly*: But, it is not necessary, nor perhaps even expedient, thus to force the attributes of human nature, under single appellations, however comprehensive or general. Although it is both wise and profitable to love our fellow creatures, we can no more become affectionate to our friend, in the mere search of wisdom, than we can in search of our interest. Our constitution must

must have the ingredient of benevolence, in order that a mind well informed may improve upon this principle of nature, and learn to direct it aright.

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“ There are good qualities,” says the Duke de la Rochefoucault, “ which degenerate into faults when they are natural, and others which are never perfect when they are acquired. It is necessary, for instance, that we should become by reflection sparing of our money and of our confidence ; on the contrary, we should by nature be furnished with benevolence and valour.” The understanding at the outset has its perfection to acquire ; the heart is good by the inspiration of nature.

But, in whatever terms we propose to express the standard of estimation relative to man whether *wisdom*, *virtue*, or *goodness of heart*, there are various conditions required to the performance of his part, and which must occur in every statement of qualities, that constitute the specific excellence or perfection of his nature. He is formed for society, and is excellent in the degree in which he possesses the qualifications of an associate and a friend. He is excellent, in the degree in which he loves his fellow creatures ; he is defective, in the degree in which he hates them, or is indifferent to their welfare. Benevolence, therefore, is a principal excellence of human nature ; and malice an article of extreme vileness or defect. These are the great sources of merit and demerit ; of justice and beneficence, on the one hand ; of wrong, iniquity, and cruelty, on the other ; a distinction, to the reality of which mankind in all ages have borne the strongest testimony : To which, on the one hand, they have paid the highest tribute of esteem and of love ; and, on which, on the other, they have poured forth the highest measures of contempt and detestation.

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With respect to *Temperance*, it is a beautiful part, we may again observe, in the œconomy of animal life, that things pernicious are painful, and things salutary are pleasant; that even things salutary and pleasant, in the proper use of them become painful, in the abuse, or when carried to excess. Under this constitution of nature, the mere animals are safely directed through life; but man's animal frame is either originally less perfect in this respect, or is disturbed by the operations of a fancy, which lead him to look for enjoyments beyond the foundations which nature has laid.

By nature, the gratifications of appetite are occasional, and do not occupy any improper portion of time; but the voluptuary conceives them as a source of continued enjoyment: And sensuality is a distemper of the imagination, not a disorder in the balance which nature has established between the animal and the rational part of man's constitution. The voluptuary does not enjoy more than the abstemious; but he employs more of his time in vain attempts to restore a fatiated appetite, and to render that continual, which nature has ordained to be occasional and temporary.

As great inequalities of character and estimation result from the different degrees in which men avoid the habits of debauchery on the one hand, or gain the habits of a just application to the better pursuits of a rational nature, on the other; there is, in this particular, much room for wisdom, and much danger from folly. In this, as in many other instances, man is destined by nature to govern himself, or to make the best of materials which become pernicious, if he abuse or neglect them; and which, to secure the proper use of them, require his utmost attention and care.

This virtue, among the active qualifications of man, may be referred to the title of application; for the pursuit, which the temperate withholds from the mere objects of animal gratification may be applied to the better and more worthy objects of human life. Sensuality, indeed, for the most part, is selfish and more solicitous about the gratifications of appetite, than about the concerns of other men; and temperance being an exemption, at least from this principle of selfishness, lays open the mind of man to those incitements of benevolence and candour, from which the disinterested are prepared to act. Temperance, therefore, in this point of view also, may be reckoned among the primary excellencies of human nature; intemperance or sensuality may be reckoned among its most real defects.

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With respect to *Fortitude*, the fourth in the enumeration of cardinal virtues, we may observe that, in every active nature, besides the disposition, the application, and the measure of skill, in respect to which such natures may be unequally estimated, there is a measure of force also required to support their active exertions, and a measure of weakness sufficient to frustrate the purpose of nature, or to betray the confidence that may be placed in the highest measures of skill and of good disposition.

Force of mind has a peculiar reference to the state of man, to the difficulties, hardships, and dangers, in the midst of which he is destined to act. In the support of what is honourable and just, he has sometimes occasion to suffer what is inconvenient or painful to his animal frame. In espousing the cause of the just, he may incur the animosity and opposition of the wicked.

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In performing the offices of beneficence to others, he may encounter with hardship or danger to himself.

But this circumstance, which seems to restrain or limit his activity, serves rather to whet his spirit, and increase his ardour in the performance of worthy actions. The difficulty he surmounts becomes an evidence of the disposition which he approves, and actually endears the object for whose sake he exposes himself. Hence it is, that ingenuous minds are confirmed in the love of virtue, in proportion as it becomes a principle of elevation, of heroism, or magnanimity. These, it is scarcely necessary to observe, are primary topics of praise, and principal excellencies of human nature, while pusillanimity and cowardice are amongst the lowest subjects of contempt.

From these particulars, then, we may collect that the excellence of a man includes the following particulars: *Wisdom*, or skill to chuse, and to accomplish what he ought to attempt; a *benevolent affection*, which wisdom is fitted to direct; an *application of mind*, which inferior considerations cannot divert from its purpose; and a *force*, which opposition, difficulty, or danger, cannot dismay. And, as the excellent man is wise, beneficent, courageous, and temperate; the defective, on the contrary, is foolish, malicious, cowardly, and sensual. The wise chuse, among their ends, what is best; among the means they employ, what is most effectual. The benevolent are committed to their best affections; the courageous are exempted from the suffering and the weakness of fear; the temperate reserve their faculties, and their time, for the best and worthiest occupations of their nature; and, if from this statement of the excellence to which human nature is competent, we look back to what has been already observed on the subject of pleasure and

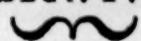
and pain, we shall have reason to conclude, that the Author of nature has not only made that most agreeable which is most salutary; but that more especially constituent of happiness, which, in the estimate of human qualities, is also most excellent, or most highly esteemed.

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To be conscious of excellence, from the very nature of approbation and esteem, is a state of enjoyment; and, to be conscious of vileness or defect, a state of suffering: Or, if these sentiments could be suppressed, still, the constituents of man's specific excellence, *Wisdom, Justice, Temperance, and Fortitude*, apart from any reflections they may bring, are in themselves, either an exemption from pain, or an accession of pleasure. And providence seems to intend, that this distinction, which is the source of elevation, integrity, and goodness, in the mind of man, should be the guide, by which he is most securely led to the highest enjoyments, to which his nature is competent. The excellence and beauty he admires may become an attribute of his own mind; and, whether in reflection or action, constitute the most agreeable state of his nature.

If we thus figure to ourselves an active intelligent being in the best state of which he is susceptible; this, in respect to him is to be virtuous. Or, if we should be disposed to consider even the excellent mind, in respect to its external relations and effects rather than in respect to its own constitution, we may observe, that the wise, the courageous, the temperate, and the benevolent, are of all others most likely to stand well-affected to their fellow-creatures, to the universe, and to the Creator of the world; that none are so likely to recognize the providence and moral government of God, or to settle religion itself on its best foundations of integrity

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grity and goodness. But before we proceed to state the conclusion of this argument, in any general expression of the supreme good to which human nature is competent, it is proper to take into our account also, what may occur on the subject of prosperity, or of those external advantages in which the gifts of fortune consist.

SECTION.

## SECTION V.

*Of Prosperity and Adversity, or the Gifts and Privations of Fortune.*

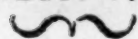
TO this title may be referred *health, strength, birth, riches*, and whatever else may be supposed to constitute the difference of situation or rank in society. The possession of them is coveted, and the privation is shunned, for reasons peculiar to each.

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*Health* is to the animal frame, what wisdom and goodness are to the intellectual nature of man, its sound and perfect state. *Strength* is also the measure of animal power, in surmounting difficulties, and performing the labours that require it. *Birth* constitutes rank, apart from any consideration of fortune or personal qualities. *Riches* consist in the store which is provided for the supply of animal wants, accommodation, or ornament.

The reasons for which these advantages are severally coveted are extremely obvious. Health is an exemption from the sufferings incident to disease; and it is a fitness of the living frame  
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for all its active exertions. It enhances the value of life, as implying all the principles of life in their state of greatest advantage. This blessing, however positive as it may appear to be, is most sensibly felt in the privation of it. Ill health and disease greatly increase the difficulties which patience and fortitude have to encounter, and tend to weaken or disqualify the mind for the practice of these virtues.

Strength of body is in some measure an appurtenance of health. It is unequal in the make of different persons; but is most entire in any given constitution, in the most prosperous state of the animal functions. So far as the constituents of wealth are necessary to the preservation of animal life, their value is evidently commensurate to that of life itself: But it is difficult to draw the line of separation betwixt convenience and absolute necessity, or between articles of convenience and those of mere decorum and fancy. There is a gratification proposed in the use of all or any of them separately, which gives rise to a hasty presumption that men are happy in proportion as they have accumulated the means of such gratifications. The rich can purchase the services of the poor, obtain their attendance and respect; and by these circumstances seem to rank in a superior station. Birth is attended with similar advantages; and, although it may have originated in the riches, as well as some heroic distinction of ancestors, at some distant period, is nevertheless by a wonderful caprice in the imaginations of men, reckoned the more illustrious the farther back that its source, or the original merit from which it is derived is retired from the sight.

The possession or privation of these advantages depend upon circumstances which mankind cannot command, nor even enumerate:

merate: They are therefore, independent of the human will. They form the occasions on which a person may adopt a proper or improper conduct; and for this he is accountable, although he is no ways accountable for the event that may follow from his best endeavours. Happily for mankind, in this distribution of their trust, it is observed, even to a proverb, that they are happy or miserable, not in proportion to the measure in which they possess or are deprived of external advantages, but in proportion to the temper of their own minds, the conduct which they themselves have adopted, and the use which they make of the means with which they are furnished by providence.

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To the person who abuses his *health*, it is no advantage; because he has taken occasion from it to give scope to his folly or his vice. And if it has encouraged or supported him in the practice of either, although to another it might be the occasion of good, to him it is at least the occasion of evil. To preserve, under the disadvantage of ill health, equanimity and a temper undisturbed; to submit with cheerfulness to the restraints which disease may impose, serves to disarm this enemy, or render his presence an occasion of good to the person who can thus acquit himself properly.

The effects of disease in different persons are no doubt unequal; and in some instances, whether owing to comparative weakness of mind, or intensity of suffering, it is no doubt sufficient to deprive animal life of its value: But this is rarely the lot or condition of man; nor is it that, against which a person, who would avoid the evils of human life, is most concerned to be on his guard. "You are afraid of sickness, poverty, and death," says Epictetus; "but, if you had been afraid of fear itself, you would have shewn yourself better apprised of your real enemy." Disease of the

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mind is more to be dreaded than that of the body: For one that is afflicted with a gangrene of the flesh, thousands incur the gangrene of envy and malice, or are bloated with vanity and folly.

*Bodily strength*, as well as health may be abused; and, to those who consider it as an article of vanity, is for the most part an occasion of brutality and extreme folly. Joined to strength of mind, it may qualify the hero to act his part in the field, or in scenes of violence: But strength of mind without it can find many substitutes; and the heroic part may be acted as well on the sick man's litter as on the warrior's horse.

*Riches*, it cannot be doubted, derive their value from the use to which they may be employed, in preserving, accommodating, or adorning the state of man, in profit to ourselves or beneficence to others. With riches, as well as birth, there is an association of personal excellence, tending to constitute a superiority of estimation or rank; and, with poverty, there is an association of comparative defect or meanness. The first accordingly is from a desire of preferment ardently coveted; the other, under a notion of degradation, is carefully shunned.

Among rude nations, although property be acknowledged and unequally distributed, its principal use being to secure the necessities of life, and this use being obtained, without being rich, it is difficult to perceive in what consists the advantage of wealth. "A Hottentot," says Sparman, "is rich, in proportion to the number of his cattle: But the richest is cloathed, fed, and attended, no better than the poor; more trinkets of brass, of shells, or beads; more fat in dressing his victuals, or in anointing his body: The honour  
" or

“ or advantage of being able to maintain more servants and cow-  
 “ herds. And the divine pleasure of doing good to his fellow  
 “ creatures, is that which constitutes the distinction of rank  
 “ in this simple race of men.”

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In the competitions of vanity, riches are more an object of ostentation than of enjoyment or use; but, in the breast of the miser, they are associated with safety more than with either of the former considerations. Persons of this description, we are told, even in the midst of plenty, are haunted with the fear of want, whilst they hoard up riches, they refrain from the use of them; and, instead of affecting the rank which their wealth might bestow, still cling to their supposed pledge of security, under the aspect of meanness and poverty. Enjoyment, however, is the charm with which riches are supposed to attract the wishes of ordinary men. It is the spur, under which mankind have striven to improve and to extend all the arts which tend to the accumulation of wealth. It is that which causeth the poor to look up to the rich with sentiments of admiration or envy, and causeth the rich to look down on the poor with contempt or pity.

But with respect to *enjoyment*, there is good reason to believe, that habit reconciles mankind, or renders them indifferent nearly alike to their respective fortunes. It is not doubted, that the meal of the peasant is equally relished with that of his lord; that sleep on a straw matras is no less undisturbed than on a bed of down, or under a canopy of state: Inasmuch that contentment, or the want of it, indifferent conditions of life, are even to a proverb observed to be equal. If the poor be haunted with wishes for somewhat beyond his present condition, so also is the rich; and it is probable that the comforts of either

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would be more felt in the privation than in the actual use. The ordinary course of life appears indifferent: They are pleased chiefly with accessions that seem to exceed, or displeased with privations that impair the advantages to which they are accustomed.

Occasional privations, at the same time, even of what are thought the essential comforts of life, are endured with alacrity and cheerfulness in the midst of any ardent pursuit, whether of business or sport. The soldier is cheerful in the midst of hardship or toil, or in the face of danger, encountered in discharging the honourable duties of his station. The huntsman incurs almost equal danger with equal alacrity; and, whatever his hardships may be, has not any pretence for complaint, because they are voluntary. Compared to either, the ordinary life of a beggar, which is ever looked on with contempt or pity, is easy, affluent, and secure.

The enjoyments or sufferings, which we commonly ascribe to riches or poverty, are in reality, in a great measure, derived from the unequal degrees of consideration or esteem with which they are attended. The soldier and the gentleman hunter either gain, or do not lose in point of rank, by the hardships or privations of ease to which they submit. The one is actually raised in his own, and in the esteem of others, by the danger he braves. The other too is no way degraded, or rather maintains his station by his contempt of repose, and by his parade of horses and dogs, which makes a part of the distinction he enjoys among his neighbours.

Nothing is better established in reason, than that the value of external circumstances depends on the degree in which they are felt.

felt. Prosperity is of no value, to those who feel it not; or to whom it only ministers an occasion of peevishness and discontent. Adversity is no evil to those, who suffer nothing from it; or who are contented and chearful, in the midst of supposed distress. And, if there were no other reason to deny the certainty of any effect from external circumstances, the unsettled opinions of men, respecting the happiness of different situations, are sufficient to shew that experience does not warrant our supposition of happiness or misery, attached to any particular measures of fortune. Some conceive happiness to be the lot of those, who are placed in the higher ranks of life; others believe it to be the portion of those who remain in the lower ranks; and many believe, that both are mistaken,—that it belongs to the middle station, equally remote from the excesses of luxury, or the pressure of want. In the mean time, wherever folly, malice, cowardice, and debauchery are found, there is suffering and misery to be found also. These are not the necessary appurtenances of any situation, whether middling, high, or low; nor is any situation securely exempt from them. The opposite virtues of wisdom, goodness, temperance, and fortitude, are equally a blessing in every situation, wherever they are found; whether on the throne of Aurelius, in the servitude of Epictetus, or any intermediate station: And, as there is scarcely a situation to be found, in which the four and malignant do not complain; no more is there a situation in which the good humoured and chearful are not content.

From these and other appearances, it should seem, that although providence has destined human life to pass away in the practice of arts; in transactions and pursuits, which relate to the gifts of fortune, as to their immediate object; that nevertheless there is not any precise measure of these gifts required, to enable the

the possessor to pass his time agreeably. To be reasonably and properly occupied about them is enough: but this occupation may take place in any state of their distribution; and, although it seems to be the institution of nature, relating to mankind, that their active exertions should originate from the want of a supply to their animal necessities; yet is it provided, also, that their felicity should be a quality of their own affections and actions, not of the supply they have obtained; that it should not depend on events, or on circumstances in which the conditions of men are so unequal, and so little at their own command.

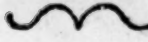
In considering man's place and distinction in the system of nature, we have had occasion to observe; that, being disposed to enjoy his own active exertions, and to improve by the exercise of his faculties, many apparent comparative defects of his animal frame, and the wants to which he is subjected, have a signal propriety in his lot. To him, difficulty, delay, and danger, are the occasions of ingenuity, perseverance, and courage. He is master of his own actions; but the circumstances, in which he is to act, are wisely withheld from his disposal. For it being the nature of an active disposition to press towards every advantage; and to hasten the removal of every obstruction, and of every inconvenience; if this could be done by a wish, there would not any longer be an occasion for active exertions: And if, on the contrary, the laws of nature were inscrutable, and events no way affected by any means in the power of man to employ, there would be nothing for him to study and nothing to be done.

The scene of nature, indeed, is in both these respects well suited to man. The powers that operate cannot be controuled by his will; but the laws, according to which they proceed, may be known, and measures taken to influence the result of their operations.

tions. He is encouraged to ply his industry and his skill ; and his work is not accomplished in single efforts. Upon a disappointment, he must renew his endeavours ; and, even when most successful, repeat or follow them up with somewhat farther in the line of his pursuits. The mixed scene of disappointment and success ever presents him with a spur to his exertion, with admonitions to care, and incitements to industry, with encouragements to hope or apprehensions of failure ; and, furnishes him with occasions, and with the materials of beneficence to others, as well as of profit to himself.

It is particularly happy, in respect to this institution of his nature, that the conduct, transaction, and intercourse, in which the materials of art engage mankind, are agreeable to their active disposition, while the measure in which these materials accrue to any one, is in some measure indifferent. All the best or the worst affections or passions of the human mind, are to be found indifferently wherever mankind are placed. As the active scenes of life may be supported by the healthful and vigorous, the virtues of equanimity, patience, and fortitude, may be practised by those who labour under all the infirmities of disease or a sickly constitution. As candour and humanity may be practised by the powerful, towards those who depend on them ; so may the corresponding virtues of respect and good will be practised by the dependent towards their superiors. Although the gifts of fortune are to those who possess them materials of beneficence, yet they are not the sole materials, nor is this use of them limited to any measure or degree of the possession. The poor man who kindly shews the benighted traveller on his way, may have done an office of more real moment, than fortune may have given the rich occasion to perform in any circumstance of his life. The
greatest

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greatest benefactors to mankind have been poor; and the greatest benefits have been done by with-holding, not by lavishing the communications of wealth. Socrates and Epaminondas, even in times when poverty was frequent, were distinguished among their fellow citizens, by this disadvantage: But the one, by his superior abilities, not only saved his country from a foreign yoke, but raised it to a pitch of glory, which filled the mind of its citizens with sentiments of elevation and of honour. From the other originate the pursuits of moral wisdom, in which all the nations who spoke the language of his country became so eminent; and to him, perhaps, we owe that we are now employed, not in gratifying a mere curiosity, in matters over which we have not any controul; but in studying the powers of our own nature, the province in which they ought to be exerted.

It was by with-holding, not by an easy payment of a trifling tax, that Hampden laid the foundations of that political freedom which his country now enjoys: And we may conclude, from the whole of these observations on the gifts of fortune, that they are valuable only in the use which is made of them; and that the proper use is equally valuable in whatever measure those gifts are bestowed or with-held. Providence, in our apprehension has indefinitely varied the situations of men: But to an observer, who can penetrate through the first appearance of things, there is a condition common to all mankind; that is, a fit scene in which they are to act, and a felicity to be obtained by proper action.

SECTION

S E C T VI.

Of Happiness and Misery.

IN the variety of denominations which we have been considering, whether *pleasure*, *virtue*, or *prosperity*, the object of those who employ these terms, is to mark, in particular instances, the object of choice; or, in the greatest possible measure of all these particulars united together, to express what they conceive to be happiness.

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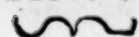
If we have understood the terms aright, and fairly estimated what is best, in the different denominations of good, and what is worst, or most to be dreaded, under the different denominations of evil, the conclusion of reason, as formed in the consideration of any article apart, will be the same throughout: That the preferable pleasure, as well as the highest merit, is found in the course of a virtuous life; and the pain most to be dreaded, or the specific defect or debasement of human nature, consists in folly, malice, or cowardice. The gifts of fortune have their use in

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being the means of life and the instruments of virtue, or in furnishing a scene for the exercise of good sense and beneficence ; but they are so far from being an occasion of good to those who abuse them, that this abuse contaminates every other source of enjoyment, disappoints the mind of its better and higher qualifications, impairs its faculties, and multiplies its sufferings and its defects.

The only question that remains therefore is, under what title we are to select this supreme or principal good, which is the genuine standard of estimation to mankind, whether under the title of *pleasure*, the *proper uses of fortune*, or *virtue*.

The general term, *Pleasure*, includes many particulars of unequal value, and in common language is employed frequently to signify sensuality and dissipation, in contradistinction to business or any serious application of the mind. It behoves us, therefore, to specify our pleasure, before we refer to it as the object of choice. And when we have done so, the particular we have selected, not pleasure at large, is the proper standard of estimation.

Happiness has its seat in the temper, or is an agreeable state of the mind ; and cannot always be considered as a proper use of external advantages ; for it does not always proceed to the production of any external effect. As virtue is the preferable pleasure, so is it also the proper use of the fortune or situation in which we are placed. It is best, then, that we fix our attention immediately on the real good qualities of our own nature, and the virtuous life they support, as the constituents of happiness ; and that we consider the debasements of folly, malice, cowardice, intemperance, and a vicious life, as the constituents of misery.

Whether these be the sole constituents of happiness or misery, we need not be anxious to enquire; for the choice on every occasion will be the same, whether we consider them as the sole or the principal species of good and of evil.

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It is of little moment to be told of a good, which we cannot command, or of an evil which we cannot avoid. Our object in every case, is to make such a choice of the things which are in our power, that is, of our own conduct and actions, as to do the best which the case can admit for ourselves or our fellow creatures.

Every circumstance, in the lot of man, evinces the case of a being destined to bear an active part in the living system, to which he belongs. His very subsistence requires such a part. To obtain it, he must study the laws of nature, invent and practise a variety of arts. He is born in the society of his parents; and, for a considerable period of his life, owes, not only his well-being, but his preservation also, to their unwearied and anxious care. So soon as he is fit to act for himself, he is urged, by the most ardent and irresistible passions, to become the parent of a family in his turn; a condition in which affections are experienced, more powerful than interest or self-preservation. The company of his fellow creatures is ever required to his satisfaction or pastime. He may be unsociable, but is not solitary; even to behave ill, he must be in society; and if he do not act from benevolence, he will act from interest to over-reach, or from ambition to command his fellow creatures, or from vanity to be admired, even by those whom he neither esteems nor loves. To such a being, it were vain to prescribe retirement from the cares

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of human life. If he is not engaged as a friend, he will be baited as an enemy; and, if his mind have not the considerations of justice, humanity, and public good, to occupy him, it will sink into a degree of brutality or languor, the reverse of that tranquillity of mind, and of those agreeable thoughts, and emotions which Epicurus proposed to cultivate, in a state of seclusion from the concerns of society, whether private or public.

Nature has made the subsistence, the safety, and accommodation, of human life to depend upon certain external circumstances and possessions, to which men, accordingly, with good reason, direct their attention. They are the objects of art and industry, and furnish the occasion of invention, and other trials of genius to the mind of man, which is ever busy, and which is at once gratified and improved, by its active exertions.

Many of its efforts are employed in guarding or in accumulating external possessions. The event, or the measure of success, we have observed, is precarious; and, on the whole, independent of this circumstance, mankind exhibit very unequal degrees of happiness or misery. They are happy in applying to their object with proper measures of wisdom, diligence, benignity and fortitude. They are miserable in folly, slothfulness, malice, intemperance, or cowardice; but in the different measures in which they attain to the gifts of fortune have equal opportunities for either. It is by the part which he acts, or has acted, that a person is happy or miserable, not by the event of his pursuit, or by the measure of external advantage he has gained: for we must forever repeat, that, under very great inequalities in respect to these advantages, there are equal examples of enjoyment or of suffering.

It is happy therefore to fulfil the destination of nature; to ply the industry, the invention, the study which she has made necessary to our wellbeing; to embrace the objects of that social affection with which she has inspired our minds; and to consider, that as our state of greatest prosperity, in which we are most effectually employed with benignity towards our fellow creatures, and submission to the will of God, in whatever he has assigned for our lot.

The happy, under every event, whether of success or disappointment, proceed with alacrity in the discharge of such offices, and in the pursuit of such objects as the occasion suggests. The miserable, in prosperity, swell into insolence; or, upon a reverse of fortune, sink into despair, and neglect the good which is in their power, because there is another supposed good which they cannot command.

What is the lesson of reason then to the poor man, who complains of his lot, or rather who enquires what, in the situation which providence has assigned to him, is required to be happy? He may be told, "Providence has given to you, and to all other men, a set of wants; and it is the will of providence that you proceed to supply them: Be diligent, industrious, and frugal: Do whatever the present moment requires with benignity and fortitude. These are the constituents of happiness, and not less in your power than they are in the power of your richest neighbour."

This temper of mind, however, under the shocks of adversity to which men are subject in the ordinary pursuits of life, may be supposed to be of difficult attainment. It is, nevertheless, attained

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ed by numbers, who, in their ordinary condition, possess the gifts of fortune in lower measures, than that to which many who sink under strokes of adversity are actually reduced. At any rate, the person who does not possess the virtues which constitute happiness, must not complain of their inefficacy; for they cannot be supposed to have effect, where they do not exist.

It may not perhaps be asked, what will make the rich man happy? for he is supposed to be sufficiently happy in being rich. He must not be dismissed, however, under this apprehension, until his own sense of the matter is taken. It is probable, that he will deny he is rich; that he will be found to have wants no less numerous than those of his poorer neighbour. Under this aspect of his state, the lesson of wisdom to him is precisely the same as to the former. Be diligent, industrious, and frugal, respecting the management of your own affairs: be candid, ingenuous and humane in your transactions with others. Fear not that the event will be such as to deprive you of these blessings: They are the greatest of which human nature is susceptible; and providence has given a place for the enjoyment of them in the situation of the rich as well as in that of the poor.

If the rich man should acknowledge that he has not any wants; but in this very circumstance should find a source of distress, which is not uncommon in the case of those who, as they are pleased to express it, have nothing to do: the misery of such persons, they may be told, is not an excess of riches, but a defect of understanding, and a corruption of heart. The first attempts to correct such folly are made in recourse to multiplied amusements and pastimes; and we must, indeed, prefer any species of harmless diversion to the devouring tooth of listless pride, peevishness, or melancholy. But it should seem, that, to a person in this situation

ation, it might soon be made evident, that offices of benefit to mankind should be a more effectual amusement to himself, than any mere trifling pastime, which is not attended with any effect whatever beyond the amusement of the present hour.

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If the sick man should complain of his lot, or desire to know by what means he may escape from his sufferings, he may be told to get well as soon as he can; and if this should appear to be mockery; because his grievance actually consists in his not being able to get well; on this supposition, the best thing he can do, is manfully to bear what cannot be helped. Fortitude may not eradicate pain; but is surely the best and happiest expedient to which the sufferer can have recourse in his state; and may, in fact, to the strenuous mind, constitute a greater blessing, than even that of being exempted from pain. In striving to find an expression or rule by which to distinguish the happy, we may venture to assume two general propositions.

I. The first is, That happiness, whatever be its cause, is itself an attribute of the mind.

II. The second is, That a person, when said to be happy, can justify this assertion only in proportion as his enjoyments are habitual, lasting, and conceived to be secure.

The first of these propositions is too evident to need much illustration; and it is only by a figure of speech, which in rhetoric is termed the abuse of words that we ever seem to express a contrary opinion. Happiness is peculiar to sentient beings; or is proper

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proper to mind, the great receptacle of enjoyment and suffering, as well as perfection and defect. When we say of an external situation, that it is a happy one, we mean to affirm only, that it is fit to produce happiness in the mind that enjoys it; and thus, by a well known figure, put the supposed cause for the effect.

But in what concerns the mind of man, external causes have not any necessary effect. The most fortunate circumstances which imagination can suggest do not produce any agreeable affection in the mind of the peevish or melancholy; and many circumstances of apparent distress do not fret or discompose the contented and chearful.

Reason, then, seems to require, that we correct this abuse of language; and reserve the appellation of happiness for mind, to which alone it is applicable, and in which it forms the distinction of goodness and worth.

In the mean time, it is not disputed, that external circumstances have their value, although they are not sufficient to secure the happiness of those who are placed in them. They include the ordinary means of subsistence and self-preservation, and have therefore a value commensurate to the value of life itself, which cannot be preserved without them. But this value, great as it may seem, is still undetermined, until the nature of that life which is preserved shall be specified. It may be happy, and it may be miserable; and, although nature has wisely given an instinctive desire to preserve it upon either supposition, and the object of instinct is life; yet the sole object of reason is happiness; and mere life, or the means that preserve it, apart from this object is of a value yet ambiguous or uncertain.

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So far, there will not probably be any difference of opinion; but, if merely to live be no more than a capacity either of happiness or of misery, we shall be ready to enquire what are the additions which life may receive, that will render it happy on the one hand, or miserable on the other?

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To this question, answers will be given as various as the conceptions or ruling passions of men. It is a maxim, that *Tastes* are not to be contested; and, on the subject of happiness, it is scarcely permitted for one man to prescribe for another. To the vulgar, happiness appears to be the portion of the young, the gay, and the prosperous. It shrinks from the touch of the laborious, the severe, and the thoughtful. It is the state of a moment. The same person may be happy or unhappy, and pass from one state to the other as quick as the successions of thought. The boy seeks it at play, and the man of business in some event, on which his hopes are suspended.

To such minds the event, while in expectation, gives a prospect of happiness; but, upon its arrival, generally disappoints the hopes which it gave: And they are the happiest amongst ordinary men, who do not dwell upon such disappointments, but at the close of any one pursuit, adopt some new one with equal alacrity.

Is man, therefore, doomed to rest the happiness of every present moment, on the prospect of some future event, which upon trial is found to be illusive? This, in fact, is the case with many of those who have devoted themselves to what they are pleased to call the serious concerns of human life, profit, preferments, or

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fame;

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same ; and yet there are persons who have no such serious objects in view, who, without regard to the future, enjoy the exercises and occupations of the present hour. Such are the huntsman in his chase ; companions in their conversation or play : in all of which the end or the stake is a trifle. But exercises of the mind or the body are highly agreeable, and “ labour itself,” in the words of the Rambler, “ is its own reward.”

To a mind conscious of this law of its nature, the object, it may be thought, should be to exert itself properly upon all occasions ; to propose reasonable ends, but never to sink under any event, nor even to incur any grievous disappointment, so long as the mind finds occasion to employ itself properly.

The exercises of good sense and of wisdom are, in their own nature, agreeable. They proceed upon a just discernment of objects, and do not give way to illusive hopes or unmanly fears. As it is the excellence of a social being to be the friend of those with whom he associates ; so the love of mankind is to man, as such, the principal source of enjoyment also.

Courage and fortitude, being the excellencies of an active nature destined to ply in the midst of difficulties, dangers, and hardships, are, to the person who is endowed with them, not less a security for the possession of all the faculties which nature has furnished for such occasions, than an exemption from fear ; and an alleviation of the suffering which hardship or danger produces, in the timorous or desponding mind.

It may be thought, perhaps, that exemption from difficulty or danger is preferable to resolution or force of mind ; and it
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may be thought wiser to seek for places of safety from which the causes of fear being removed, there is not any occasion to exercise the virtues of intrepidity or courage.

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The wise, no doubt, will avoid unnecessary occasions of suffering or of danger ; but these, notwithstanding, are, by the appointment of providence, sometimes a part of his lot : And if the fearful could remove every real cause of alarm from human life, where is the place of security in which the coward will not figure to himself objects of fear and distrust ? Where is the bed of roses on which the Sybarite will not find the doubled leaf ? Or where are the circumstances of affluence and ease to which the discontented and the peevish may not impute the sufferings of his own fretful temper ?

The virtuous are not deceived, when they avoid the excess of an animal gratification, or reject sensuality as their guide to enjoyment. It is well known, that temperance is eligible, as the proper œconomy even of animal pleasure ; and, the more that such pleasure is valued, the more we should value those habits of life, which preserve the animal organs in a proper state of enjoyment. But temperance is the œconomy of pleasure, still, in a higher sense than this : It is the œconomy of the wise ; who, knowing the higher purpose of his nature, will not submit to bestow an improper part of his time or attention on objects of inferior consideration or value.

To the second proposition, then, we may subjoin, as its application and its comment, That happiness is constituted in the mind, by the continued habits of wisdom, benevolence, fortitude, and temperance : And the reader may be addressed, nearly in the

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same terms which the emperor Antoninus addressed to himself;
 “ If you discharge your present duty with diligence, resolution,
 “ and benignity, without any bye views ; if you adhere to this,
 “ without any farther desires or aversions ; completely satisfied
 “ in discharging your present offices, according to nature, and
 “ in the heroic sincerity of all your professions, you will live hap-
 “ pily. Now, your doing this none can hinder.”

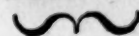
This account of happiness does not preclude any reasonable attention to the ordinary concerns of human life. Nay, requires such attention, as part of the offices of a man, and in the performance of which his happiness consists. It precludes only so much dependance of mind on the events of fortune, as disable it for the proper discharge or continuance of its office, with respect to these or any other object of reasonable care.

It were unhappy to neglect any means that might tend to obtain the proper end you propose : but it is more unhappy to be so affected with any event whether adverse or prosperous, as to become unfit to continue or repeat the exertions of a diligent and beneficent mind. Such exertions are the foundation on which you are to rest for happiness. Events you may endeavour to obtain or provide ; but they may also happen contrary to your wishes ; and your happiness cannot consist in events which you cannot bring about, although it may, and actually does, consist in the temper you command and the part you act, through all the variety of events to which you are exposed.

On this subject, *good sense* need not charge itself with the paradox, which, we are told, was maintained by ostentatious zealots, whether of the Epicurean or the Stoic school, that all external
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situations are equal ; and, that the perfect man would be equally happy in the bull of Phalaris, as on a bed of roses.

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Fortitude, of a very inferior measure to this, is surely a valuable quality ; but, in whatever measure or degree a wise man possesses it, he will not, without necessity, or some adequate inducement, run himself into sufferings of any sort. Such pain or inconvenience, as he has actually incurred, he will be happy to endure, without repining at providence, or intermitting the exercise of his mind and his faculties. If he be in prosperity, he will think the happy part committed to his choice is moderation, equanimity, and beneficence ; if, in adversity, the same virtues still remain to be exercised in the manner which the occasion prescribes.

SECTION

S E C T I O N VII.

Of the actual Measures and Sources of Good and Evil in human Life.

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THE value of virtue, as we have endeavoured to define it, will not be questioned: For who can doubt the value of a wisdom, which cannot err; of a temper, which is ever joyful and serene, in its exertions for the good of mankind; of a temperance, which no allurements of false pleasure can mislead; or, of a fortitude, which no difficulty or danger can embarrass or appal? This, we may be told, is first to imagine perfect happiness, and then to give it the name of virtue; whilst the whole is ideal, and never realized in the case of any human creature.

Such, indeed, is the nature of abstract science, we systematize our own thoughts, leaving the application to be separately made. On the subject of morals, more especially, we propose to inquire, not what men actually are; but what they ought to be, or what are the ideas, upon which they may, and ought to determine their choice in particular instances. But, although this be a sufficient answer to the objection which is sometimes made to moral science,

science, as a scheme of visionary and unattainable perfection. It may not be improper to consider what are termed virtues and vices in the minds of ordinary men; with their various degrees and occasions, in order to shew that there is not any intention to obtrude definitions and divisions for historical facts; and even, that the impracticability of perfect virtue is no reason why we should abate our endeavours to do well. *Perfection* is ever to be aimed at, even by those who incur *defects*; and *defects* always to be shunned, even by those who come the farthest short of *perfection*. If the moralist is not to enjoin *perfection*, he must do, what of all things is most contrary to reason, recommend *defects*. The conditions of men are extremely unequal; yet, no one is so high in the scale of being, as that he may not move a step higher, and no one so low, as that he may not get into the way of advancement. Although he may not attain to all the perfections of the wise as described in any of the antient sects of philosophy; yet he may not incur all the mistakes of the foolish, and the fewer the better. Happiness, it should seem from the observations of the last and some of the preceding sections, is a term of praise equivalent to merit, and consisting in the uniform tenor of a virtuous life: But, as *honesty consists in meaning well* *, it should also seem that happiness is within the competence of every human creature: Whence is it, then, in any instance so imperfectly obtained? And whence is it, that so many complain it is placed beyond their reach? They surely do not consider it as an attribute of their own will and affections.

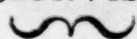
Men of speculation have risked a conjecture, that all the difference of genius or character, which have appeared in the world

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may

* *Laudandoque velle sit satis.*

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may be traced to some casual suggestion of sentiment or thought; or to some specific occasion, that stirred the peculiar passion, and roused the original effort, which, continued into habit, gave the individual his bias to a distinguishing cast of genius or character through life †. But, without pretending, in this manner, to level the original distinctions of nature, we may venture to assume, that men are much affected by early impressions; and continue to take much of their characters from the notions they entertain, and the habits of thinking they have acquired.

As we may know what a person thinks from his actions, so we may guess how a person will act, from our knowledge of his habitual ways of thinking, let it be conceived, that to live virtuously is to be happy, that to have an evil or malicious thought is misery; and let these ideas be ever present to the mind, as the idea of his treasure is ever present to the miser, or the importance of his own person is ever present to the coxcomb; and the apprehension of a happiness so constituted, will amount to a steady principle of integrity and beneficence; as their respective habits of thinking are, to the miser, and the coxcomb, the essence of avarice, impertinence, and folly.

Self-conceit must appear in ostentation, or in a continual obtrusion on the notice of other men. The admiration of birth and fortune, in one class of men, may betray itself in pride and contemptuousness, in another class, may appear equally in envy and malice, or in servility or meanness. The temper also re-acts upon the judgement. The chearful are inclined to think of gay subjects; the melancholy, to entertain gloomy apprehensions of things; as the

† Helvetius de L' Esprit.

the courageous are inclined to confide in their fellow creatures, and the cowardly are inclined to distrust them.

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We are disposed towards the objects around us, either as the other animals are disposed towards the objects of sense, by an original instinct, or blind propensity of nature, or by a relation, peculiar to intelligent being, that of the conception we have formed, or the habit of thinking we have acquired.

Such is the soil, in which the moralist is destined to sow, to plant, and to make his trial of what can be reaped; without being discouraged, because the full bloom of terrestrial paradise is not every where, or perhaps not any where, to be seen on the earth; and the fairest fruits come, mixed with the noisome productions of the wilderness.

Moral science operates for our good, only by mending our conceptions of things, and correcting or preventing the errors from which moral depravity or misery proceeds. The very appellation of good, though no more than a name habitually bestowed upon its subject, has great effect, on particular occasions, in warping the judgement, and in directing the choice. It was for this reason, probably, that philosophers of old appeared so anxious to fix the application of terms, as well as to store the mind, with just conceptions. They proposed, that the first principle of morality should eradicate every false apprehension on the subject of good and evil; and so become sufficient to give a just direction to the will and affections, wherever they proceed on the pre-conceived notion of things.

Epictetus seems to rest the foundations of virtue and happiness on the proper discernment and choice of objects, which are in

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our own power, in contradistinction to things which are not in our power. Among the things in our own power, he reckons "our opinions, our pursuits, our desires, and averfions; and, in a word, whatever are our own actions." Among the things not in our own power, he reckons "body, property, reputation, command, and, in a word, whatever are not our own actions *." Attachment to the first, and indifference to the second, are, according to him, the essence of wisdom and happiness.

It is surely happy for any one to be conscious that the best things are in his own power: But, in this, the vulgar are frequently deceived; and recur to fortune, as more in their power, than the attainments of a happy mind. They seek for happiness in external accommodations, rather than in any quality or condition of their own nature: and seem to think external circumstances more in their power, than their own actions; or, what is worse, think their own actions of value, only so far as they affect their fortune.

To this ground of distinction, which is laid by Epictetus, we may subjoin another, relating to the same subjects; but taken from a different consideration of them, that is, from the consideration of their value, whether real or supposed, which is in some instances *absolute*, in other instances merely *comparative*. Among things of absolute value, are to be reckoned chiefly the habits of a *virtuous* life, *intelligence*, *benevolence*, *temperance*, and *fortitude*; or, in short, the *good qualities* which form the best condition of human nature; and which they, who possess them, enjoy the more that others partake of the same blessings. Among advantages

* Epictet. Enchiridion, cap. I. Mrs. Carter's translation.

tages merely *comparative*, on the contrary, we may reckon *pre-* PART II.
cedence, and *superiority*, whether of *riches* or *power*; and, in a CHAP. I.
word, all the circumstances, in respect to which the *elevation* of SECT. VII.
one is *depression* to another.

In a former section, there was an attempt to account for the origin of malice, from an error or defect of understanding, in admitting advantages or disadvantages which are merely *comparative*, as principal constituents of happiness or misery. Under this apprehension, although a person were by nature disposed to benevolence, he is, by the interference of interests, checked in the effect of this disposition. And, among parties so stated, the celebrity of one being obscurity to another, or the precedence and preferment of one being degradation to the other, they are, in the midst of such pursuits, naturally rivals and competitors, and have more frequent occasions of hatred and distrust than of confidence or good will *. “The king †,” says Bassompierre, “after he had given the command of his army in Italy to his brother, bethought him how much the glory to be won in that service would obscure his own; and, so powerful is jealousy, even among relations, that he took this so strongly into his head, or rather into his heart, as to deprive him of rest.” In this rage for comparative advantages, the success of one is disappointment to another; and the industry of one to better himself a scheme of hostility to those who must sink under his elevation.

From this source are derived, jealousy, envy, and malice, those

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waters

* See Sect. of the Origin of Evil.

† Lewis XIII. and XV.

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waters of bitterness, which flow so plentifully in human life. The wretch, whose principal aim is to surpass other men, joins to suspense, hinderance, disappointment, mortification, and all the evils of a precarious fortune, the impossibility of extricating himself, without a total reverse of all his imaginations and thoughts. To become candid and humane, he must change objects of his hatred and distrust into objects of good will and benevolence; and consider his fellow creatures in society, as the procurers of much convenience and benefit to himself, not merely as rivals and competitors, under whose prosperity or elevation of rank he is doomed to sink, or incur degradation.

Purify the mind of this taint, and most of the evils in human society are done away. Desire would be placed chiefly on those things which are of absolute value; which any one may possess in the highest degree, without detriment to another; or rather, which, being in the possession of one, prove an aid to others in the attainment of like blessings.

The reputation of virtue, like celebrity in any other way, may engage men in competition and rivalry; but virtue itself is promoted by the prevalence of virtue in the world. The lamp of wisdom is lighted by communication with the wise; and benevolence is inspired in the society of the benevolent. Fortitude and temperance gain strength by example. Whoever can rest upon these qualities of supreme value, as the constituents of happiness, finds no occasion on which to feel the unhappy passions which terminate in malice. He is gratified in the welfare of other men; and wishes for their elevation in goodness and virtue, as he wishes for the rising of the sun upon the world, as a common benefit to all who partake in his influence.

Antoninus was happy, not in wearing the purple, nor in possessing the throne of Cæsar; but in the attainments of a steady and beneficent mind. In these he was no man's rival, and was ready to share every blessing, even with those who attempted to supplant him in the empire *.

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We err, in deriving the corruptions, which are imputed to great cities and courts, from the love of pleasure, and from the profusion of wealth, with which the love of pleasure is gratified. The mere voluptuary is innocent, compared to those who are deeply infected with malice, envy, and pride; a generation of evils begot upon emulation, competition, or the apprehension of comparative advantages, whether precedence, titles, or wealth. Wherever the roots of such evil are planted, the concourse and assemblage of men, from which we should otherwise expect the practice and improvement of every social disposition, but renders the growth of malevolence more copious and rank. Competitors for the lustre of equipage and dress, might have slept in quiet, or enjoyed tranquillity, at their return from a brilliant assembly, if the lustre of some other person had not proved an eclipse to theirs; or, if his equipage and liveries had not appeared to surpass their own, and to carry away from them the attention of the world.

We may therefore admit, that such errors of the imagination are constituent of moral weakness, and scarcely separable from actual depravity of the heart. If no external consequence should follow, we may thank the administration of regular government, which

* See his Recommendations to the Senate in behalf of Cassius.

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which checks the tendency of unhappy passions ; and applaud the established decency of manners, which require certain measures or appearances of candour to be preserved, even between parties at variance with one another ; and which not only conceal the torment of unhappy passions, but tend, in some degree also, to conciliate good will, by inspiring forbearance, where the tendency of competition is to awaken jealousy, or hatred, and give occasion to offensive behaviour.

The great weight of corruption, proceeding from the jealousy of competitors for riches, power, and court favour, without the counterpoise of external restraints, from decency and good manners, sunk the capital of the Roman empire, and the palace of Cæsar, into scenes of the most atrocious brutality, perfidy and cruelty : And, it must be confessed, that the consideration of such consequences would be sufficient to warn us against like notions of good and evil : or, if men were to form their opinions, not on the evidence of fact, but on the grounds of expedience ; nothing can be more evident, than that a conception of happiness, in things out of our own power, or in things of which others are in haste to prevent our enjoyment, by stepping before us, must be attended with fruitless longings, heart burnings, jealousy and malice. But, if such be the nature of good, relating to us, philosophers, it will be said, may dispose of names as they may think proper, and call any gift of fortune indifferent ; but they themselves will not be the less desirous to possess it. Nor can men be required to have any other conception of good and evil, than what the real aspect of things in nature serves to suggest.

So much is admitted ; and the question relating to *what is good,*
whatever

whatever notion of things it be most expedient for us to entertain, must recur for solution to the tribunal of fact and experience.

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Let the fact therefore decide! Are men happy or miserable, in the precise degree of their good or ill fortune; or of their precedence to others? If so, fortune and precedence are the sole good. But, if men are found equally happy, or equally miserable, under great varieties of rank and fortune, it is evident that the measure of happiness or misery is not to be taken from thence; and that a wise man will not adopt an opinion, nor countenance a form of expression, at once inexpedient and contrary to fact.

In fixing the notions of good, it is not wise to rely for happiness, on things which are not in our own power; on things which are not of any absolute value; but, which please only by comparison with what other men possess, and which therefore engage us in a competition and strife, adverse to the best and happiest qualities of our nature.

Neither is it wise to rely for happiness on the mere possession of things, which may be well or ill used, and which, in being abused, are no less the occasion of misery, than in being properly used they are the occasion of happiness.

As happiness is a condition of the affections and temper, mere external situation is not to be considered as any part of it, farther than the external circumstance is able to produce that internal condition, or happy state of the mind.

The Stoics, proceeding upon one or other of these maxims, limited the appellation of good to virtue, that of evil to vice alone.

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Under this limitation, their famous paradox, *that pain is no evil*, and the gifts *of fortune indifferent*, meant no more, than that there was not any moral turpitude in pain; and that the gifts of fortune neither exclude, nor secure, the possession of virtue. This, indeed, they considered as sufficient consolation to those who labour under any external inconvenience, whether of adversity or pain.

As a material on which virtue may operate; as an instrument of beneficence; as a stake, for which men are to play, and become gainers or losers for themselves or others in the game of human life, they allowed that external possessions have their use, and that they merit the attention of the wise: but to rely on them in any determinate measure for happiness they maintained to be extreme folly. In pursuance of this doctrine, they would not prostitute the denomination of good to any thing that was not virtue; nor permit any thing to be called evil that was not vice; and would not have a man set his heart, or rely for happiness, upon any thing beyond his own province of responsibility or conduct. In this manner they strove to cultivate an elevation of mind which would not owe its good to any contingent circumstance, nor to any will but its own. They would set at defiance the events of fortune or the caprice of other men. They would not be in fear of any adversity which could not hinder their acting a virtuous part; nor be flattered with a prosperity which could add nothing to the merit of a virtuous life.

The Peripatetics were content to remain on a step below these high pretensions. They too held virtue to be the supreme good, and had just maxims of integrity and honour, but comparatively enfeebled

enfeebled, as the Stoics alledged, with a notion that even these depended on fortune for part of their effects. While they assumed virtue, or a laudable part to be acted in the community of mankind as the supreme good ; and reprobated the recluse tranquillity, or selfish enjoyments of the Epicurean, as poison to the soul of man, and death to his best and happiest affections ; whilst they allowed, that the highest measure of fortune never could be brought into competition with any consideration of justice or duty ; they still required prosperity, to compleat the felicity even of a virtuous life.

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In this argument, the Stoics, though charged with paradox, and themselves the more ordinary butts of ridicule, yet turned this weapon against their antagonists : “ You allow,” they said, “ that
“ virtue is the constituent of happiness, and even that fortitude
“ is a virtue ; and yet to complete that happiness, you require a
“ fortune, which virtue despises, and an ease in which fortitude
“ is not required. You tell us of a good which the thief may
“ steal from his neighbour ; which the miser may lock up in his
“ coffers from all the world ; which the glutton may devour at
“ a meal ; which may be denied to the worthy, and lavished on
“ the vile. You preach up moderation, and even abstinence,
“ with respect to this good. You own it is mean to be solicitous
“ about it ; and noble to despise it. You call that a good, therefore,
“ of which the contempt is wisdom and honour ; of which the
“ privation did not marr the happiness of Epaminondas and
“ Socrates ; nor secure the condition of Darius or Croesus. The
“ wise man, they said, will acquit himself properly with respect
“ to the gifts of fortune ; but, for his happiness, will rely upon
“ what he himself does ; not upon what he possesses ; upon the

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“ general

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“ general resolution, integrity and goodness which are his own ;
“ not upon the caprice of other men, nor upon the measure or
“ degree in which the materials on which he is to work falls to
“ his share.”

This may well be considered as a degree of perfection, far raised above the ordinary state of human nature : It is, nevertheless, that, for which it was given, a noble idea, upon which the ingenuous mind cannot too nearly form itself.

Men very commonly suffer themselves to depend, for present comfort, upon some distant object, or the hopes which they entertain of the future. This is no more than a habit of thinking ; yet it may produce frivolity and weakness, if not depravity of mind, or neglect of duty. The future seldom comes up to the expectations that were formed of it : But it is the nature or character of feeble minds, notwithstanding the fallacy of past expectations, to apprehend a future, on which, to the neglect of present objects or duties, they still continue to rely.

Material subjects, or external circumstances of any kind, except so far as they affect the organs of sense with pleasure or pain, are in their own nature indifferent ; and, if beyond this they excite desire or aversion in the mind, it is by means of some quality, whether of good or evil, honour or dishonour, which are not inherent to the subject itself ; but associated with it, in the conception which the mind entertains. The miser has associated happiness with money, in his conception of riches ; and is insatiable of wealth. The usurper has associated honour with power or dominion ; and sticks at no means, whether of insinuation or force to obtain his end.

Whatever be the habitual conception, and the habitual pursuit, these form the ruling affection or passion of the human mind : If the object, in itself, were fitted by nature to excite such affection or passion, as the juice of an orange produces the sensation of sweet, the affections or passions of all men, like the sensation produced on their palate, would be the same. But, while sensations are uniform, conceptions are various ; one person hopes for what, to another, is an object of fear : Infomuch, that many have thought themselves justified in concluding, from these appearances, that there is not in reality any standard, by which to rectify or to fix the apprehensions of men. But, as we have found the distinction of good and evil sufficiently established in the nature of things, we have only to apply this distinction, in order to correct any mistake or false apprehension, respecting the subjects of estimation or choice ; and, in our endeavour so to profit by the exercise of reason, consists the fruit of that information on the subject of good and evil, which it is the object of moral science to obtain or convey.

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SECTION VIII.

The same Subject continued.

Ἄ τες μὲν εἰδοτας καλὰς καὶ ἀγαθὰς ἤγειτο εἶναι : Τες δὲ ἀγνοῦντας
ἀνδραποδῶνεις ἀν δίκαιως κεκλήσθαι.

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IF, to avoid the imputation of visionary schemes, it be required to keep in view the actual state of men's minds, as well as the abstract idea of what they ought to be, we may continue to offer a specimen of the opinions, or habits of thinking, in which the characters of men commonly originate ; trusting that a few examples may be sufficient to lead every person in pursuing the same tract of observation for himself.

There are persons, we know, who do not so much reprobate the vices to which mankind are subject, as depreciate human nature

ture itself. This is an unhappy turn of thought, tending to stifle the sentiments of humanity or good will towards others, and to check the efforts of any ingenuous endeavour in the person who would improve himself. Man is formed to take part in the common cause of his fellow creatures; and he suffers in thinking meanly of their nature: He is formed for progression; and is frustrated in having his pretensions stated so low as to check his exertions. Men will not attempt what they think is altogether visionary and beyond their reach: But, in the gradation of human character, there are every where faults to be corrected, and improvements to be made, of which the smallest possible effect is ever preferable to none. Socrates believed that men might be disposed to mutual beneficence, and that numbers were so disposed. Aristippus conceived that all pretensions to the love of others were false; and that every one proposed to be of use only to himself. The one was inclined, by his conception, to benevolence and magnanimity; the other to selfishness and distrust.

There is an error seemingly opposite to this depreciation of human nature; but, in its defects, also productive of misery. Such is an overweening conception or imagination of what men actually are, producing an ill founded confidence in the supposed prevalence of generosity, magnanimity, truth, and sincerity, of which the undistinguishing assumption not only exposes the mind to folly, disappointment, and other effects of mistake; but leads, in the sequel, to the very opposite extreme of distrust of mankind, and despair of virtue.

To the well-informed and the well-disposed, virtue is not the less real that vice is frequently opposed to it. The mixed scenes of human life are its proper station. Here, it is equally signalized

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ed in withstanding the evil, as in co-operating with the good ; and its happiness depends, not upon the consent or participation of others, but on the degree in which it exerts itself.

It is unhappy to rest our choice of good qualities on the supposition that we are to meet with corresponding qualities in other men ; to apprehend that candour and humanity are due only to the candid and the humane ; or, that want of merit in others will dispense with that justice or liberality of conduct, which it is our happiness to maintain for ourselves.

In consequence of such conceptions, we sometimes repent of the good we have done, when, (as we suppose), the parties concerned appear unworthy of kindness : And, in such instances, the rule of our conduct is taken from what others deserve, not from what is becoming in ourselves. Want of merit in the world is alledged, as an excuse for indifference to mankind ; and what is perhaps in us a desire to shift our own duty, is mistaken for the severity of virtue. Instead of ingenuous actors, we become squeamish observers of other men ; and, taking offence at their behaviour, indulge animosities little short of malice.

It is unhappy to consider perfection, more as the standard by which we may censure others, than as the rule by which we are to conduct ourselves.

We are by nature enabled to conceive a measure of excellence beyond what we are able to attain. This, when the standard is applied to ourselves, may become a source of indefinite progression ; but, when applied only to other men, is a pretence for invidious

dious censure ; infomuch that, a principle, which ought to incite in us the choice of good qualities, and a disposition to correct our own faults, is employed only as an occasion of contempt or malice towards our fellow creatures. Every ill disposition is unhappy ; but the misery is then the most complete, when ill dispositions set up for censure, and assume the pretence of holy zeal, or concern for what is right.

It is a wretched opinion, that happiness consists in exemption from labour, or in having nothing to do.

This opinion is taken up, perhaps, from the abuse of words, when we contrast the enjoyment of some supposed good with the expectation and pursuit of it. In this contrast, we fancy that enjoyment begins only when labour has ceased ; and, in this apprehension, the world is full of expectants, who think, that their happiness is deferred by the labours and toils they undergo in finishing the task which Providence has prescribed to them. They sigh for relief from trouble, and sometimes obtain it ; when, fortunately for the instruction of mankind, they show, by their example, that the languors of in-occupation are more grievous than toil.

The wish to have nothing to do, is most excuseable in persons who, having labours prescribed by necessity, are frequently urged on to fatigue. The powers of human nature are limited, and require alternate periods of repose as well as exertion ; but, as the too long continuance of labour is grievous, so the continuance of inaction, beyond the time that is required for repose, is attended with a weariness and languour, no less distressful than fatigue.

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The notion, that happiness consists in relief from any active engagements, is easily accounted for, also, in the case of those who, having a task to perform, never engage in it willingly. The task possibly confines them, and prevents their application to any thing else, while it does not supply those real exertions of mind, which never fail to make the time that is well employed pass away with delight. The person who is thus confined, without being occupied, mistakes his aversion to confinement for an aversion to business; and his longing for a change of occupation he mistakes for a dislike to exertion. Thus, while the school-boy is confined on his form, his heart and his mind are in the play-field. As he does not apply to his lesson, nor even attend to it, while he reads it, he is only confined, not occupied. What we term his aversion to application, and his longing for the hour of dismissal, is an ardor for employment; and, in fact, when free to chuse for himself, he betakes him to a labour, in which every muscle of the body, and every faculty of the mind, is strained or exerted to obtain the object of some hazardous or toilsome contest.

It is thus common, through life, to be reluctant in business, and fond of amusement: But, while in declining business men seem to reckon any kind of employment a grievance, they, by recourse to hazardous sports and diversions, make ample confession that some kind of active and even serious engagement is indispensably necessary.

The distinction between business and amusement is perhaps not easily settled, or consists intirely in this, that business is prescribed by some consideration of interest or duty; and amusement is taken up, in the beginning at least, without any such serious concern.

But

But if business be distinguished by the importance of the object, on which it proceeds, amusement soon becomes insipid, unless means are found sufficiently to interest the mind, and exercise its faculties. This end, indeed, is obtained by the votaries of play, in creating to themselves a risk, which far exceeds that of the merchant in the adventures of his trade, or those of the politician in his prospects of elevation or power. The hazards incurred by either are insipid, compared to the chances of loss or gain, in which the finished gamester is known to involve himself. Nor is this a refinement only of polished ages. The mere savage, after he is stripped of all his other possessions at the gaming table, closes the scene with a throw, on which he stakes the freedom of his person *.

Business, to those who are really occupied, may have all the qualities of an agreeable pastime. If it be a diligent performance of the offices incumbent on a man of integrity and virtue, it will join the satisfaction of a mind conscious of duty, to that of a mind employed in the exercise of its faculties, and exempt from fear, malice or remorse. So that, to those who decline business for the sake of amusement, it may be said, that they reject what is fitted to employ them agreeably; and in order to quicken the feelings of a mind which is become languid for want of employment, betake themselves to pursuits in which they become a prey to evil passions. Such is the effect of dissipation, a weakness of the mind which loaths its best occupations, as the sickly stomach is found to loath the most wholesome food.

We may conclude, therefore, that the love of amusement is
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* Aleam (quod mirere) sobrii inter serua exercent, tanta lucrandi perdendive temeritate, ut cum omnia defecerant, extremo ac novissimo jactu, de libertate et de corpore contendunt.
TACIT. de Moribus German. c. 24.

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unhappy, if it proceed from a notion, that any thing can amuse us better than the duties of our station, or that any employment is more to be wished for than that precisely which in the present moment has fallen to our share. If any one have formed such a notion, he may be told to beware of it. It will disqualify him for his best enjoyments and embitter his life with peevishness and melancholy.

It is unhappy to conceive beneficence as an effort of self-denial; or to conceive that we lay our fellow creatures under great obligations, by the kindness we do them.

This notion refers chiefly to acts of charity or liberality; in which the beneficent gives to another what might be of use to himself. It were vile to be insensible of such merit; but the person, who gives such proofs of goodness, is himself the last to over-rate its value. "If I have done a kindness to my fellow creatures", says Antoninus; "is not this itself my benefit? let me not forget it, nor ever cease to do such things".

To the same effect, also, we may transcribe the following passage:
"There are some who, when they have done you a good office,
"are apt to remind you of it. Others do not mention what they
"have done; but have it uppermost in their thoughts, and consider you as their debtor. A third sort do not seem to know
"what they have done; but are like the vine which produces its
"grapes, and *has done*, when it hath yielded its proper fruit.

"As the horse when he has finished his course; the hound,
"when he has ended his chase; the bee, when it has made its
"honey; so he, who is truly a man, performs a good office,
"without

- “ without any noise ; and proceeds to the next that occurs to be
 “ done, as the vine, in its proper season, renews its foliage and
 “ its fruit. We ought to be of the number of those, who do
 “ not seem to know the good they have done : Nay but ought
 “ we not to be conscious of beneficent intentions ? Is it not the
 “ property of a social being, to wish well to his fellow creatures.
 “ Yea, so help me God, to desire, too, that his fellow creatures
 “ should be sensible of his beneficence ? What you say is true,
 “ yet, if you misapprehend what I said above, you will belong
 “ to one of the former classes, and be among those who are led
 “ aside from perfection by specious reasons. But, if you are
 “ willing to observe the distinction, that is made between those
 “ first classes and the others, do not be afraid that it will cause
 “ you to fail in any social action *”.

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If virtue, whatever be its external mode of exertion, be itself the excellence or good of human nature, (and we do wrong if we admit of any thing else as virtue) or, if it be, in the intellectual world, what health, and strength, and beauty, are in the animal kingdom ; there is no reason to apprehend, that a fellow creature is obliged to us for being virtuous, any more than he would be obliged to us for being in health.

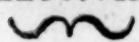
The offices of a sound mind are as natural to the virtuous, as those of a sound body are to the healthy. The humane and the candid can never cease to perform the offices of humanity, and candour, although they do not consider, in what degree others may be obliged to them for so doing.

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* Anton. lib. v. c. 6.

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It were unhappy to consider virtue as a task, consisting of external performances, enjoined under the sanction of rewards and punishments. We can no more become benevolent, from the hope of reward, or the fear of punishment, than we can possess ourselves of fortitude from the love of ease or aversion to trouble. The ingenuous and high minded believes the reality of future rewards and punishments ; but, if they are any thing different from the possession or privation of that goodness, to which he aspires, they are mere accessaries to the considerations from which he acts; they may be useful, in restraining a criminal disposition, but are not necessary, in directing or forming the virtuous to his duty ; much less, is a regard to them an essential constituent of his character.

If the future lot of the righteous be happy, his present condition in the practice of virtue is so also ; and it were absurd, surely, to conceive that a person must not prefer the good which he may now enjoy, but for sake of a good which he is to enjoy hereafter.

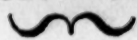
It is unhappy to admit of any consideration in competition with our real good. " There is hardly a man to be found," says an ingenious observer*, " who would not rather be in pain, to appear " happy, than be really happy, to appear miserable." So familiar are the examples of paradox, even in the conceptions of the vulgar. As they examine their own aspect by reflection from a mirror, they judge of their own condition by reflection from other men's thoughts ; consult the opinion of others, rather than their own feelings ; prefer consideration, or the reputation of worth, to worthiness itself ; and do not so much consider how far they deserve praise, as how far they possess it.

This

* The Tatler.

This is beginning the work of felicity at the wrong end ; labouring for a superstructure before they have laid a foundation ; and striving to produce a shadow without any substance.

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All men would be happy. The most erroneous passions mislead from this object only by mistake ; and, it is to mistake their own aim, when they would produce abroad the appearance of happiness, before they have possessed it in the qualities of their own minds. The reality will not fail to carry its external appearances ; or, if it should be unobserved or mistaken, the disadvantage is comparatively of small account.

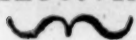
It is sufficient respect to the opinions of other men, that we are pleased with their testimony, without sacrificing the consciousness of an ingenuous mind to what the world may think, or without preferring the appearances of merit to the real though silent possession of it.

In this, the mistake is doubly to be regretted, as it implies the substitution of a false object for the true one, and the substitution also of what is precarious, and depending on the caprice of others, what is matter of anxiety and disappointment, for an attainable and secure possession. Such is the choice which the vain-glorious has made, in preferring the opinions of other men to the possession of real good qualities in himself, which he might cultivate securely, and on which he might rely without any hazard of a disappointment.

It is unhappy to depend for enjoyment on what we cannot command, or to fix our desires on what is beyond our reach.

Thus,

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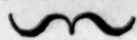
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Thus,

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Thus, it were unhappy for the labouring man, to long for exemption from labour. It were unhappy, in the poor, to aim at appearing like the rich ; to long for an equipage, a retinue, a palace, a table ; and think himself excluded from happiness, in being deprived of these things.

Ambition, or the unwearied desire of something higher than we possess at present, is a principle well suited to the nature of man ; and it is, in some one or other of its applications universal to mankind. If it apply to invigorate the practice of virtue, and the exercises of a mind, ingenuous, candid, and humane, this every one has in his power. If it apply to the conduct of ordinary business, whether private or public, still the person so engaged may be well employed for the present ; and, if he complain of misery in the absence of his object, we may venture to question the wisdom or the temper of his mind.

The ingenuous, the strenuous, and ardent, though we should suppose them not to reflect on the merit of the part which they are acting, are happy in the very exercise of their dispositions and powers ; and this is so far from being inconsistent with the pursuit of an object, that it requires, or pre-supposes some object to engage the mind, and give occasion to the exercise of its faculties.

“ That the mind of man,” says the Rambler, “ is never satisfied with the objects immediately before it, but is always breaking away from the present moment, and losing itself in schemes of future felicity, and that we forget the proper use of the time now in our power, to provide for the enjoyment of
“ that

“ that which perhaps may never be granted us, has frequent-
 “ ly been remarked ; and, as this practice is a commodious sub-
 “ ject of raillery to the gay, and of declamation to the serious, it
 “ has been ridiculed with all the pleasantry of wit, and exagge-
 “ rated with all the amplifications of rhetoric. Every instance,
 “ by which its absurdity might appear most flagrant, has been
 “ studiously collected ; it has been marked with every epithet of
 “ contempt, and all the tropes and figures have been called forth
 “ against it.

“ Censure is willingly indulged, because it always implies
 “ some superiority : Men please themselves with imagining that
 “ they have made a deeper search, or wider survey, than others,
 “ and detected faults and follies, which escape vulgar observa-
 “ tion,” &c.

“ This quality of looking forward into futurity,” continues
 the same author, “ seems the unavoidable condition of a being,
 “ whose motions are gradual, and whose life is progressive : As
 “ his powers are limited, he must use means for the attainment of
 “ his end, and intend first what he performs last ; as, by conti-
 “ nual advances from his first stage of existence, he is perpetually
 “ varying the horizon of his prospects, he must always discover
 “ new motives of action, new excitements of fear, and allure-
 “ ments of desire.

“ The end, therefore, which at present calls forth our efforts
 “ will be found, when it is once gained, to be only one of the
 “ means to some remoter end. The natural flights of the human
 “ mind are not from pleasure to pleasure, but from hope to
 “ hope.

“ He

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“ He that directs his steps to a certain point must frequently
“ turn his eyes to that place which he strives to reach. He that
“ undergoes the fatigue of labour must solace his weariness with
“ the contemplation of its reward.”

So far this author seems to contend for a reliance on the future, as the principal constituent of present happiness; and it may be difficult to combat any folly, if this Hercules with his club stands in the way to defend it. He may, however, be quoted against himself. “ Labour,” as he has stated in another place, “ is its own reward;” and, in the sequel of the passage now quoted, he owns, “ that some caution against keeping our view
“ too intent upon remote advantages, is not without its usefulness”

It is the object of reason, in this matter, to distinguish the objects to which our views may be safely directed, from those which mislead our desires, and furnish nothing to gratify the mind for the present, besides a vain expectation of the future.

Of the latter kind, are all those objects, which are so far out of our power, that we cannot form any reasonable plan of exertion or application in the pursuit of them. To indulge in the hope or desire of such things, is that cause of misery, which we are now considering. Under its effects, the misguided mind is urged by a sense of its wants, but is precluded from any agreeable exercise of faculties, or of power to obtain their supply.

With a better choice of an object, the case may be different. A person may *direct his steps* to a certain point, and frequently

turn his eyes to that place which he strives to reach, while his walk is pleasant, and the exercise it gives him is eligible, upon its own account.

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Nor is this any great effort of philosophy, or aim at perfection: It is common in human life, in all its innocent or rational pursuits: It is the course in which men have enjoyed the exercise of their faculties, and by that exercise improved their powers; in which they have been led to observe the system of nature around them, to extend their knowledge, and to multiply arts, whether lucrative or agreeable. It is in the present occupation of their nature they find occasion, whether for opposition or concert, and have their abilities or their disposition to beneficence brought to the test. So that, in numbering the blessings of human life, we may venture to reckon the act of pursuing its object, as of more value than the object pursued; and may rely much more, for happiness, upon the means which are employed for the attainment of our end; than we are to rely upon the end itself, even when obtained: Infomuch that, if any person looking forward to the future is unhappy for the present, we may venture to affirm, either that he has mistaken his object, and fixed his desires on that which does not admit of his taking any reasonable measures for the attainment of it; or, that if his object be reasonable, and such as he may pursue with advantage, he has certainly failed in the proper exercise of his faculties, in that course of industry and diligence, which his object prescribes: Infomuch, that *raillery and censure* too are very properly applied to those, who, *ever intent on the future, are unable to enjoy the present.*

Whatever be the end, which persons of this description propose to themselves, their present sufferings imply sloth, ill temper, and

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puffillanimity,

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puffillanimity; either a want of proper exertion for the attainment of their end, or the wrong choice of an end which does not admit of any reasonable exertion.

Wherever the faculties are reasonably exerted, if to this we join the exercise of good affections, the sense of innocence and beneficence, magnanimity, courage and temperance, the one an exemption from unreasonable fear, the other an exemption from brutal excesses, the cause of happiness is present, and does not depend upon any thing future.

Persons blessed with alacrity and goodness of disposition, are thus happy in the course of their ordinary pursuits; and, even while their object is distant. So the boy is gratified at his play, the gentleman at his sport, the plowman at his labour, the tradesman in his workshop, the soldier on his march, the statesman in his office; and each, proportioned to his alacrity, and to the application he gives to his business. So that, in censuring those who, from their attention to the future, are unhappy at present, it is not the ordinary state of a man, or of a progressive being, that we censure; it is the vice, and the folly of those, who, from sloth or the defects of temper, are disqualified to employ themselves well for the present.

It were unhappy to think ourselves unable to struggle with difficulties, under which others appear to be much at their ease.

In respect to what nature will bear, one person may serve as a model to another; and teach him what he may endure or perform. The peevish may be apprized of his own strength, by the example

example of numbers who are chearful under hardships, no way less grievous than those which cause him to repine.

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Man is not formed to acquiesce in any precise situation. In the best, he finds something to do; and, in the worst, is then only unhappy, when he suffers his courage and powers of exertion to be overwhelmed. While he exerts himself to remove an inconvenience, he ought to be so far patient under it, as, in his endeavours to procure relief, fully to possess himself and his faculties.

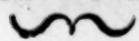
In the variety of conditions incident to mankind, respecting the measure of their external supplies and accommodations, we may accordingly observe a wonderful latitude, in the measure of hardship or inconvenience to which they can submit, joined with a continual desire of improving their condition, even when at the best. Here is contentment joined to impatience, of that with which they are content. Both are necessary qualifications of man's progressive nature: The disadvantages, under which he labours in any one state of his fortunes, do not disqualify him from proceeding with alacrity, diligence, and ability, in mending his condition; nor does any advantage he ever has gained so far content him, as to terminate any farther exertion of his faculties.

This happy mixture of fortitude under present inconvenience, with a vigorous effort of mind, for the removal of it; although the just balance of temper be frequently overset in the minds of particular men, is, nevertheless, a general characteristic of the human species.

The weak are querulous and peevish in their present situation,

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yet do not exert themselves to remove the cause of their suffering. They see numbers, on every side, who bear such a lot as theirs with indifference, and yet are pleased to think themselves singularly wretched. They are so, no doubt ; but it is a wretchedness of temper and opinion, not of external condition.

In such instances, frequently, the mind is wounded, rather in its conception of dignity, than in its sensation of harm, from the actual effect of external circumstances. Certain privations are conceived to effect a diminution of rank ; and the very pride, which is offended in this diminution, disables the sufferer from endeavouring to procure his relief. Pride is supine, fullen, and listless ; in many other respects, a principle of misery or suffering ; and, in this, a disqualification for any of the efforts, which are required to reform either the character of the man, or to remove any cause of complaint from abroad.

There are ways of thinking, which mislead and tend to corrupt whole nations at once. False notions of religion, which interpose the authority of God in behalf of any frivolous or cruel practice ; systems of bigotry and intollerance, which set mankind at variance, and lead to persecution and mutual destruction, on the score of difference in matters of faith or worship ; false notions of honour, which promote quarrels, distrust, and mutual wrongs ; false notions of liberty, that indispose men to subordination, or public order ; false notions of government, that substitute force and discretionary power, for law and justice ; false notions of rank that attach elevation to mere birth and fortune, exclusive of merit ; or that proceed on a notion of eminence, which no public service or lustre of character can supply. Under such apprehensions, a distinction or supposed elevation of rank, which
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ought to incite the mind to noble actions, serves to discourage those who would aspire to real greatness ; and flatter those who think themselves great, with the notion of an exemption from the necessity of merit, or of any good quality whatever.

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From the example of mankind, in numberless instances, the importance of opinion or habitual conception is obvious. The person who habitually conceives that the church yard is haunted, or that goblins ply in the dark, trembles with fear, where another having no such conception is calm and undisturbed ; and the mind, in either case, may be said to be the author of its own good, or its harm. The one may suffer himself to be infected with that weakness, or the other may be corrected of it, according as they neglect or employ their reason to its proper use.

The opinions which tend to happiness are the reverse of those which tend to misery. In treating of the one, we naturally refer to the other. In opposition to that corrupt state of apprehension, in which the distinctions of fortune are substituted for those of merit and demerit, we may observe it is happy to be guided in our estimation of persons not by fortune and fashion, but by the merit of intelligence, probity, equanimity, and candour.

In matters of mere inclination or will, it is natural to become in ourselves what we admire in other men. And persons, to whom the standard of estimation is personal worth, have already received the bias of an ingenuous mind to integrity and honour ; so much, that to esteem and to love those virtues in others, amounts nearly to a possession of them in ourselves.

To be ready, on all occasions, with discernment and truth, in
matters

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matters of duty, to state to ourselves,—This is what I have to do, and this is the part for which I am responsible; with a habit of limiting our own desires to a full and perfect discharge of the office so assigned us, is rather indeed the essence of happiness than a mere conception tending to obtain it.

All men partake in the concerns of ordinary life, and cannot without absurdity neglect their own subsistence and accommodation, the œconomy of their fortune, the settlement of their families, the defence and welfare of their country; but happy are they who, in such matters, can distinguish the part assigned to themselves from the part which Providence has reserved to itself. To man it is given to exert his natural powers with diligence, benignity, and courage; but the event, in every transaction is at the disposal of Providence; and the happiest conception or habit of thinking, of which man is susceptible, is, that the part assigned to him may be equally supported under every change of events, and that events do but form a change of the situation in which he is to act. Let him sincerely lament the misfortune of his friend or his country; but let him be ready, also, with all his ability, to retrieve such misfortunes.

Life itself, with all its supports, is precarious and temporary. The longest liver must die, and the shortest liver can do no more. For us, it is happy to know, that our concern is to conduct ourselves well through life, whether it be short or long. Benevolence and courage are sufficient to happiness; malice and cowardice constitute misery, whether the life in which they are incurred be of long or short duration.

It is happy to conceive the integrity, diligence, and fidelity,
which

which are in our own power, though unobserved by others, as the completion of good to ourselves. It is happy to conceive the debasements of a malicious and cowardly nature, not as matters of degradation merely in the opinion of other men, but as in themselves the completion and essence of all the evil to which we are exposed.

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In the relations of mankind, the brother cannot rightly act the part of a stranger, the citizen the part of an alien, nor the individual, considered apart from every particular relation, rightly forget that he is a man, and has a common cause with mankind. On this subject, every just conception is productive of happiness, and leads the individual to consider himself as surrounded with objects of affection, and the affection he bears in his mind as the principal excellence of his own nature.

It is happy to know, that the cause of justice and goodness is secured by infinite wisdom and power; to conceive ourselves as instruments in the hand of God, to be employed for the good of his creatures, and our happiness as consisting in the willing consent of our minds to be so employed.

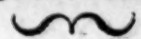
The adorable perfections of God inspire a confidence, a veneration, and love; which amount, at the same time, to a conviction, that goodness and wisdom, even in such measures of them as are communicable to created beings, are of the highest value; and the affection they inspire is in itself a disposition to receive the communication of them.

It is happy, in every place, to carry in our thoughts, that we are in the situation in which it is the will of God that we should

act;

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act; and that to act, in such situations, with diligence, integrity, and good will to mankind, is the part he requires of us.



Whoever thus habitually thinks or conceives of himself, is possessed of religion, virtue, and happiness. This no one can procure for another. It is left by the Almighty for every one only to procure it for himself. Aurelius accordingly procured it for himself, but could not for his son. With this unhappy person, notions imbibed among the meaner domestics of the palace precluded the instructions of the father and of the friend.

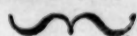
If happiness were an attainment of the mind, to be acquired as a science or an art is learnt from a master, the teacher might justly be considered as the vicegerent of God; and no place could contain the numbers that would flock to his school. But, in this the Almighty has delegated his power to every person only respecting himself: But he has provided a discipline, in the result of which, perhaps, even the most depraved may, in the end, become willing to avail themselves of the trust which the Author of their nature has reposed in them. When error, and folly, and profligacy, drained to the bottom of the cup, shall have led the mind to nauseate the draught, better thoughts may arise, and man, thoroughly apprised of what is evil, may become willing to remove it, and intentionally work himself into habits of what he conceives to be good.

Such may be, respecting the most refractory subjects, the effect of a moral government, which actually operates in the nature of things, and in a manner of which we have formerly endeavoured to remark some particulars. Reason and knowledge may hasten its effects; and for this purpose our feeble endeavours

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to erect the fabric of science, that they who resort to it may proceed on a just knowledge of their place and destination in the system of nature.

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The happy, without incurring either dejection or pride, from events whether prosperous or adverse, rely chiefly on what is of absolute value, health of body and soundness of mind; and may reckon, as their highest privilege, the power to preserve, in all the varieties of fortune, a disposition, candid, fearless, temperate, and just. Even among the gifts of fortune, they can observe and enjoy matters of absolute value, in respect to which there is no possible ground of interference or competition: Such are the blessings which nature has equally provided for all men: The water of the fountain, or of the running stream; the light of the sun; and the vital air of the atmosphere; existence itself, in short, or admission to behold this magnificent scene of the universe;—compared to which, any or all the comparative superiorities of one man to another disappear, and are as nothing. Society itself is felt, by the happy, as a common blessing to all its members; and, like the air they breathe, equally necessary to the rich, who would avail themselves of the labour and skill of others, as it is to the poor, who would obtain the reward of their labour.

C H A P. II.

OF THE FUNDAMENTAL LAW OF MORALITY, ITS IMMEDIATE APPLICATIONS AND SANCTIONS.

S E C T I O N I.

Of the Law, or first Principle of Estimation in the Character of Man.

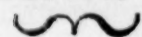
BY separately examining the nature of *good* and *evil*, under the titles of *pleasure* and *pain*, of *beauty* and *deformity*, of *excellence* and *defect*, *virtue* and *vice*, of *happiness* and *misery*; we have endeavoured to arrive at some general conception of what is best for mankind.

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These articles we have found to differ chiefly in words, but in matter and substance to be nearly the same. The same qualities of *wisdom, goodness, temperance, and fortitude*, which constitute the excellence of human nature, are constituents also of its beauty and its happiness. The opposite qualities of *folly, malice, debauchery, and cowardice*, which constitute its defect, constitute also its *deformity, or turpitude, and its misery*.

The different appellations in question have a reference to different aspects, under which the subject may be considered. Beauty and deformity have a reference to the qualities of good and evil, in respect to their first appearances or aspect. Excellence and defect, virtue and vice, have a reference to their reality in the character. Happiness and misery have a reference to the state of enjoyment or suffering, which they constitute in the mind.

If we should endeavour to concentrate this description, or reduce this enumeration of qualities, to some one general principle the most likely to unite the whole, we should be limited in our choice, probably, to one or other of the qualities first mentioned, in the estimate of characters; that is, either to *wisdom, or goodness*.

The other two qualities, whether of *temperance or fortitude*, considered apart, are less likely to secure the whole. *Temperance*, considered as mere abstinence from improper gratifications, without any positive direction of the mind to a better purpose; or considered as restraint from evil, without the formation of a disposition positively good, would constitute a very imperfect model of excellence or felicity.

Fortitude, considered as a mere force of mind, without any specification of a choice or direction, in which that force should be employed, might be exerted equally for a wrong as for a right purpose ; and courage, prompted by folly might be employed for the destruction of its owner, like the brutal strength of that wrestler * ; who could tear open the cleft of a tree, but who could suffer himself at the same time, to be caught in it.

The term equivalent to *wisdom*, among the antients, was employed by them to comprehend every article of praise, and enabled them also to comprise the laws of morality in the single recommendation of this quality. In our translation of that term, however, the sense is more limited ; and, were we to state wisdom as the fundamental principle of morality, we should be thought to substitute a prudential choice of our interests for what ought to be matter of affection, and the effusion of a benevolent heart. Mere prudence is an excellence of the understanding only ; but virtue includes, as a preferable consideration, the energy and direction of an amiable and happy disposition.

It is well known that, to secure a proper choice of conduct, on all occasions, good affection or disposition is not less necessary, than able judgement : Nay, we may be convinced, from experience, that persons of common understanding, with fit dispositions, are less apt to err on trying occasions, than the ablest understanding unsupported by any goodness of heart ; or than mere understanding, warped as we may suppose it to be in the defect of good dispositions, by motives of a different tendency.

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* Milo of Crotona.

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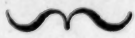
If we are, therefore, to contract our description of happiness, or reduce it to a point, around which the most valuable qualities of human nature are likely to be collected, we may venture to select that of goodness, or benevolence, as the most likely to serve our purpose; and, by way of principal or fundamental law of moral wisdom, may assume, that the greatest good incident to human nature is the love of mankind.

The different forms or aspects of this disposition, as it may be exercised in pity to the distressed, or in candour and humanity indiscriminately towards all men; as it may be exercised in the mutual confidence of friends, or in the love of a citizen to his country, have been already stated; and although, in this place, its designation in the mind of a man be taken from his relation to mankind, a title under which are comprehended objects the most intimate to him, and the least likely to be mistaken by him; yet, the disposition so characterised is in reality a susceptibility of just affection towards every object, whether of pity, respect, or veneration; whether the lowest or the highest that can enter the thoughts of a well disposed and a happy mind.

The love of mankind, on every arduous occasion is an aid to the judgement, in directing the conduct which a wise man is destined to hold: In difficult situations, it is a noble support of courage. Even the timorous become bold under the instigation of a warm or generous affection; the humane, by habits of benevolence, are secured against the effect of dispositions comparatively inferior or mean; and ordinary men, when roused to feelings of generosity or pity, remain insensible to the allurements of inferior pleasure, or the sufferings of pain.

Benevolence, therefore, may in some degree be considered as a principle of wisdom, of fortitude, and temperance; and, as it either inspires or requires for its support every other good quality of human nature, we cannot greatly err, in assuming it as the fundamental or primary object of moral law. Its external effects, expressions, or appearances, are the supreme objects of esteem and complacency; and its reverse, cruel insensibility, and malice, recollected in ourselves, or observed in others, are the supreme objects of remorse, of indignation and hatred.

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Hence it is, that the murderer is the common object of detestation to himself and all men; and without waiting for the conviction of external evidence, is so often betrayed by the horrors of remorse which affect his own mind.

S E C T I O N II.

Of the first and more general Applications of Moral Law.

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THE applications of a physical principle are made, either to the formation of theories, and the explanation of phenomena; or to the production of effects, and the practice of arts.

Physical science is fruitful of arts, or enables the person who is acquainted with the operative laws of nature, to direct its operations to his own purpose. Moral principle being a just conception or adequate expression of what is good, is fruitful of wisdom and proper conduct. Its first application is to form the temper, to correct false apprehensions of things, to confirm the truth, to cultivate just affection, and to direct the energy of a strenuous mind in external actions, and to induce and confirm all the habits of a virtuous life.

There is one point of view in which the sciences, whether physical or moral, unite their effects. That point to which they fe-
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verally tend, when physical science becomes comprehensive of the order of nature, or lays open the view to infinite goodness and wisdom ; and moral science, abstracting from local forms and observances, becomes in the mind a principle of extensive benevolence, by which the individual states himself as a part in the order of nature, and entirely devoted to the will of its Author.

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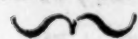
In these points of view, science may be considered as the highest attainment of created intelligence, and its nearest approach to a communication with the supreme Creator ; an approach, in which, through the medium of knowledge, it receives an impression, and contemplates a form of beauty, the most likely to command its affections.

The distinctions, which we have been considering, of *enjoyment* and *suffering*, of *excellence* and *defect*, of *happiness* and *misery*, subsist in the mind, and may be conceived as properties of mind, abstracted from any external effect or appearance whatever.

At the same time, as every property of the human mind is a modification of an active animal, as well as of an intelligent being, as it is a measure of power, or a direction of will, forming the energy of a nature so mixed, and of which the effects must appear wherever the living nature is destined to range or to ply its exertions, we cannot suppose the mind to possess any quality, whether of excellence or defect, that is not attended with a suitable consequence in the transactions of life.

Hence it is, that the animal and physical actions of men present an object of moral discernment, and furnish subjects of commendation and censure, more obvious to most men than even the

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qualities of mind itself, when they attempt to conceive such qualities apart from external expressions or effects: And, as men, in some instances, do not appear to be assured even of their own thoughts, until they have put them in words; so they are, with much better reason, doubtful of what may be the qualifications of any other person, until he has given to his thoughts and dispositions their effect in his conduct.

Virtue, therefore, in the mixed nature of man, is at once a condition of his mind, an aspect and carriage of his person, and an ordinary series of action, fitted to his situation, as the member of a community, in which the conduct of every particular person contributes its share to the good or the evil incident to the whole.

So far the subject admits of a general statement, in which there is no difficulty. In the more particular treatment of it, however, some difficulties have arisen, which it may be proper to state, before we enter on the detail of moral obligations and duties.

These difficulties relate to the phenomenon of *moral approbation*, considered as a subject of theory; or to the different opinions of men, on the subject of moral actions and duties, considered as a standard of estimation for mankind.

Relating to these subjects, we may enquire, first of all, upon what principle men proceed, in estimating the morality of actions? Next, Whence the difference of opinion, on the subject of moral duties? Whence the real gradations of *merit* and *demerit*? And, from the observations that may occur, endeavour to collect

lect some fundamental rule or canon of estimation, respecting the morality of external actions, and the propriety of manners, before we proceed to consider the variety of functions, under which such actions are required; or before we enter on the separate departments of science, to which the study of morality refers, under the titles of *jurisprudence*, *casuistry*, and *politics*.

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## S E C T I O N III.

*Of the Difficulty which has arisen in accounting for Moral Ap-  
probation.*

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IF, according to the result of our enquiries on the subject of good and evil, what is required as the excellence or virtue of human nature, also constitute happiness; and if vice, on the contrary, is to be dreaded as the constituent of misery; there cannot be any doubt of the choice to be made.

But virtue, even to those who are far from considering it as happiness, is still matter of esteem and respect; and vice, even where the vicious are conceived to possess the good things of this life, is reprobated and condemned: Infomuch, that virtue is approved even by those who depart from it; and vice is disapproved even where it is embraced.

This sentiment, therefore, is of a peculiar nature, not a specimen of mere desire and aversion, directed to a particular object; but a censorial act in the mind of man, having cognizance of a *right* or

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a *wrong* in the measure or tendency of his own desires or aversions, even when they have most entirely determined his will.

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Doctor Clarke, and some others, considering virtue as the fitness of man's character and practice to his own frame, and to his place in the system of nature ; and, considering reason or understanding itself as competent to observe the fitness of things, have assumed human reason as the principle of moral discernment.

This system is nearly the same with that which, making virtue to consist in the conformity of will to truth, makes reason also the arbiter of right and wrong, as of truth and error.

But these systems have been rejected, as unfit to explain the phenomenon of moral approbation ; which, being itself an affection or sentiment of the mind, must be derived from a principle to be sought for among the considerations that influence the will, not among the perceptions of mere intelligence, which go no farther than to remark the existence of things.

Upon this ground, men of speculation have had recourse to various considerations of *utility*, private or public ; of *sympathy*, and of *moral sense* ; to account for the approbation or disapprobation of actions which they themselves or others perform.

The investigation and application of any one of these principles, joined to the refutation of others, has amounted to treatises, and led to discussions of great length. But the utmost that can be done in this place, and in a mere summary state of so much argument, is to enumerate a few of the principal theories ; and endeavour

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deavour to extricate the mind from the perplexity, which so many discordant accounts of the same subject may occasion.

In the mean time, the *Regulæ Philosophandi*, or canons of reason, as they are prescribed in other examples of physical investigation, must be sustained in this \*.

I. *We are not to assign, as the cause of any appearance, what is not itself known as a fact in nature.*

Upon this principle, we reject *hypothesis*, or the mere *supposition* of a cause, of whose existence we have not any previous knowledge; as the vortex of Des Cartes is rejected in accounting for the planetary revolutions.

On this rule, it is probable that none of our theorists will trespass; for, although some have proposed to account for intelligence itself on the supposition of some occult configuration or motion of material atoms, constituting reflection and thought; yet, as the mind, when so constituted, ever acts upon some consideration known to itself, it is impossible to think of explaining an act of the mind, in any particular instance, without recurring to some one or other of the considerations, on which the mind is generally known to proceed.

II. *We are not to deduce effects from causes, which, though real, are unfit to produce the effect.*

In the *connection of cause and effect*, in contradistinction to a mere fortuitous contiguity of circumstances, there is supposed a continual

\* Vide Newtoni Principia, lib. iii. ab initio.

continual or inseparable accompaniment of one with the other. Wherever the cause exists, there must the effect exist also. And the converse. They are ever to be found together, and in the same proportions.

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Upon these principles, actual *utility*, whether private or public, will not account for the phenomenon of moral approbation.

For, apart at least from any *private utility*, it must be acknowledged that men approve of virtue, as it was exhibited in scenes long since past, and on occasions in which they could not possibly have any private or interested concern.

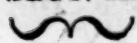
The sentiment of approbation, therefore, is certainly not proportioned to the private benefit actually received from the action approved, by the person who approves.

*Utility*, as it concerns mankind indiscriminately, and without any limitation of persons and times, is certainly more likely to account for this phenomenon.

Virtue is no doubt of a nature to be useful to mankind; but if, under the title of *utility*, as is probable, we refer to the external effects of virtue, we shall not find moral approbation keep pace with the actual measure of benefit mankind received from this or any other cause.

There are many examples of great utility, in which no subject of moral approbation is conceived. Land is fertile; a tree is fruitful; a steer performs much useful labour; yet, in these there is no subject of moral esteem. The supposed cause, contrary

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trary to rule, is found to exist in many such instances, without producing the effect it is brought to explain.

In answer to this objection, it used to be admitted, by the author of this system, "that moral approbation does not extend to matters of mere physical utility; or is limited to mind, and its active exertions." This limitation, accordingly, may be admitted: But actual utility, even in affections of mind, does not always amount to a subject of moral approbation. What more useful in nature, than the disposition of every man to preserve himself; for, on this the safety of the whole depends: Yet its most reasonable effects are merely tolerated, seldom applauded as virtue, and often reprobated as selfishness and vice.

This effect, also, of moral approbation is sometimes found without the actual utility which is supposed to be its cause.

The mere attempts of a virtuous man to serve his friend, or his country, is an object of moral esteem; not only where he may have failed in his purpose, but even where the event may have been calamitous to himself, or to others. The person, who dies with his friend, in attempting to save him; the person who sinks under the ruins of his country, in striving to preserve it; is no less an object of moral approbation, than the most successful adventurer in either cause. And, if success, for the most part, give lustre to enterprize, the tender melancholy that arises from a tragic event, is well known also to enforce the love of virtue, without regard to utility, of which the idea is excluded by the want of success.

It appears plain from these instances, that moral approbation, though

though limited to the exertions of mind, yet does not accompany every useful exertion; nor even where it applies, does it require any actually useful effect. The will alone is sufficient to procure it: This, in other words, is to admit that benevolence, not actual utility, is the object of moral approbation: And, concerning this, most parties may be agreed. Even Mr Hutchison, who assumed a moral sense, as being a specific faculty, required to distinguish between moral good and evil, considered *benevolence*, nevertheless, as the essence of moral good, or that quality which mankind, by their sense of right and wrong, are enabled to distinguish as good.

The benevolent will concur, one with another, in every thing that is for the benefit of mankind; but, in accounting for moral approbation, we must still return to the consideration of that peculiar sentiment of estimation, of which virtue is the object. And the whole must end in a confession, that virtue, of which a principal part is benevolence, is estimable in itself, not merely as the means of obtaining any other end.

If, in the term *utility*, we include whatever is beneficial, or tends to the benefit of mankind, then is virtue itself, or its constituents of *wisdom*, *goodness*, *temperance*, and *fortitude*, the greatest good of which human nature is susceptible: And we only risk misleading the mind from its principal object, by substituting utility for the more proper expression of a blessing important to the person whose character it is, more than even to those on whom any of its external effects are bestowed.

It were preposterous to express the value of happiness, by calling

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ling it useful. Or, if a person who is happy in himself be thereby disposed to be useful to others, it were preposterous to say, that the happiness of one person is valuable only so far as it is useful to another.

Virtue is, no doubt, supremely useful, even in the ordinary sense of this term. Justice, liberality, and charity, appear in acts of beneficence; and render those who are inclined to practise them, the guardians and friends of their fellow creatures. Even what we term acts of prudence, fortitude, or temperance, though seeming to terminate in the welfare of the person acting, are in fact preservatives of good order, and contribute to the welfare of mankind. The benevolent man is the more serviceable to his fellow creatures, that he is in himself prudent, sober, and intrepid. The opposite vices are destructive, pernicious, or un-serviceable.

This tendency of virtue has been set forth in colours of glowing and superior eloquence\*.

The external effects of virtue are acknowledged; but we cannot suppose that the sentiment of love, or respect, of which virtue is the object, is resolveable into a mere consideration of convenience or profit; nor can we overlook its value in constituting the worth and felicity of those by whom it is possessed, for the sake of a convenience it may procure to others, who, without any merit of their own, may wish to derive benefit from the external effects of merit in other men.

Upon

\* See Hume's Moral Essays.

Upon this principle of utility, the distinction of right and wrong appears to be resolved into a mere difference of tendency, or external effect in the actions of men. In another ingenious attempt to explain the same phenomenon, the approbation of virtue is resolved into *sympathy*, or what may, for ought we know, be a kind of accidental humour in those who approve or condemn a supposed virtuous or vicious action.

*Sympathy*, in common language, is limited to *commiseration* or *pity*; but, has of late, by men of speculation, been extended to sentiments of *congratulation* also. It may be supposed either merely instinctive, and a contagion of sentiment, as when without any knowledge of a cause, we laugh with those who laugh; become gay with the joyful; or sad with the melancholy: Or it may be supposed to proceed from a conception of the occasion or cause, whether joyful, provoking, or melancholy, that is the motive of action, or object of passion. And it appears to be in this last sense, that *sympathy* is assumed as the principle of moral approbation.

When the observer feels, in a certain degree, the passion or motive by which another is actuated, upon a supposition that the same thing had happened to himself; this participation of sentiment is supposed to constitute approbation. Thus, when a person complains or exults, if the observer, upon a state of the case, partake in his sorrow or his joy, it is said, that *he cannot but approve of it*.

If the joy or grief exceed what the observer *can go along with*, it is condemned as weakness or levity: if it fall short of what the observer is disposed to feel, it is condemned as insensibility: if

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nearly what he himself would feel in a similar case, it is esteemed or respected as proper ; and so on of every other passion or sentiment appearing in the conduct of human life.

It may be difficult, in this account of the matter, to fix where the moral quality resides ; whether in the person observed, in the observer, or in neither separately, but in the mere concurrence of one with another.

This last, indeed, or a mutual sympathy, may imply that the parties are satisfied with one another ; but, in the sense of all mankind besides, their agreement may be wrong : And, if the action of one person need the sympathy of another to justify it, we are still to enquire in what manner is that sympathy itself evinced to be right.

This theory proceeds upon an assumption, that to partake in any passion or sentiment, or to be conscious that we ourselves should, in like circumstances, be so affected, is to approve of the motive to action, and to approve of its effects : But it is acknowledged, on all hands, that approbation or disapprobation is a specific sentiment, not a species or degree of any other sentiment : That it concerns the right or wrong of other passions, whether original or sympathetic, and therefore enabling the mind, on occasion, to pronounce of sympathy itself, whether it be proper or improper.

If, in judging of this theory, we recur to the maxims of reason already cited \*, we shall find them violated in this, no less than in

\* Regulæ Philosophandi Newtoni.

in the assumption of utility, for a principle of moral approbation. That is, the effect will be found without the supposed cause, and the cause will be found without its supposed effect. In respect to acts of uncommon bravery, we admire the more for being conscious that we ourselves could not have done so much. Although we are conscious that, in extreme indigence, we ourselves must have asked for relief, yet we do not admire a beggar. Although we are conscious that with money we ourselves should have bought an estate, yet we do not admire the purchaser. Although we sympathize very feelingly with the admirer of a fine woman, we do not mistake his passion for virtue, any more than we mistake for generosity the choice made by him who bought an estate. There is sympathy, as well as utility, without approbation; and there is approbation without either; for we sometimes have an idea of what we ought to have done, or to have felt, as very different from the part which we actually take in the feelings of other men. And it is remarkable that sympathy should be then only equivalent to approbation, when we sympathize with the benevolent, the disinterested, the courageous, and the just.

But, if it should be acknowledged, that, to partake in the sentiment of another is to approve, and not to partake is to disapprove of his conduct, it remains, upon this system, to be stated, by what sympathy it is that we judge of ourselves.—

If, by the actual participation of others in our sentiments and actions;—it should follow, that, in actions concealed from the world, there should be no conscience of right or wrong; or that, in actions submitted to vulgar judgement, we should be in great danger of error; the multitude is often ill informed, and otherwise ill qualified to judge of merit. And this indeed is so far acknowledged,

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acknowledged, in forming the theory in question, that virtue is not referred to the test of actual sympathy, but to the test of a sympathy, imagined and selected in the case of a well informed and impartial observer.

Here too there is a masterly tone of expression \*; and, if eloquence were the test of truth, no want of evidence to obtain belief: But, in this reference to a supposed well informed and impartial observer, there is an implied confession, that there is some previous standard of estimation, by which to select the judge of our actions; and this standard, by which we are enabled to select an impartial and well informed spectator, to whose judgement we refer, or by which we are enabled to judge of sympathy itself, as well as of every other action or passion, is that principle of moral approbation, of which we are now in search.

This is not merely a question of fact, as in other examples of physical theory: For we do not enquire what men actually do in any number of instances; but what they ought to do in every instance? what is the principle of moral discernment on which they may safely proceed, whether in judging of others, or in chusing for themselves?

Sympathy is no doubt a part in the social nature of man. Individuals mutually bestow, and delight to receive it; but, like every other natural disposition, it is susceptible of abuse, and by no means a safe or an adequate principle of estimation. As the presumptuous appreciate others by their own standard, the weak and dependent rise or fall in their own esteem, according to the value that is put upon them by others; but neither one nor the other, surely, should be set up as the models of perfection to mankind. It

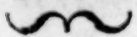
\* Vide Smith's Theory of Moral Sentiments.

It is difficult to name the power by which man is enabled to distinguish between right and wrong, without recurring to the generic appellation of some of his other faculties, as *sense*, *perception*, or *judgement*. This power has accordingly been termed a moral sense, or a sense of moral good and evil; and the name has led to an hypothesis or supposition, that as nature, in the case of different animals, has superadded to the other principles of sensitive life, some peculiar faculty of *seeing*, *smell*, or *feeling*, as in the lynx's eye, the hound's nostril, or the spider's touch; as to other qualities of the loadstone, are joined the magnetic polarity and the affinity to iron: So, to the mind of man, over and above the powers cognitive and active, the Maker has given a power judicative, respecting the merit or demerit of character, and approving or disapproving even the dispositions, from which the moral conduct proceeds.

Lord Shaftesbury sometimes uses the term moral sense, as expressive of a conscious discernment of moral good and evil, but seems to refer to the fact merely without any thought of an hypothesis to account for the phenomenon of moral approbation. It was enough, in his apprehension, that the distinction of moral excellence is real, and that we are by our nature well qualified to perceive it. In this, also, the sects of antient philosophy seem to have acquiesced, without requiring any other account of the matter.

If it be understood, therefore, that difficulties arising on the question of theory, relating to the explanation of the phenomenon of moral approbation, do not amount to any degree of uncertainty in the fact; and, if it be admitted that moral right and wrong are of the most serious consequence to mankind; the faculty, by which we perceive the opposite conditions of men in  
 3 this

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this particular, may be known by any name that does not tend to confound the subject with others of a different nature.

If *moral sense*, therefore, be no more than a figurative expression, by which to distinguish the discernment of right and wrong, admitting this to be an ultimate fact in the constitution of our nature; it may appear nugatory to dispute about words, or to require any other form of expression than is fit to point out the fact in question. And if this fact, though no way susceptible of explanation or proof, being uniform to a great extent in the operations or nature, is itself a law, not a phenomenon; it may no doubt serve as a principle of science, to account for appearances that result from itself, and to direct the practice of arts throughout the departments in which it prevails.

Thus the laws of *motion, gravitation, cohesion, magnetism, electricity, fluidity, elasticity*, and so forth, which are not explicable upon any principle previously known in nature, are nevertheless received as unquestionable facts, and with great advantage pursued to their consequences in the order of things. In this pursuit they furnish at once a secure direction to the practice of arts, and the most satisfactory account of appearances in the terrestrial and solar systems.

Men of speculation were sometimes amused with conjectures, respecting the cause of *gravitation*, and the intimate nature of other *physical laws*; but science made little progress, while these were considered as phenomena to be explained, and not as principles of science applicable to explain their diversified effects throughout the physical system.

Such, also, we may suppose to be the fate of theory, when employed to explain the law of estimation in the mind of man. The existence of this law is known, as the existence of mind itself is known, without any thing previously understood, from which to infer or explain it, or on which to rest our belief of its truth. Its applications, in our judgement of manners, are no less proper than the application of any physical law in accounting for its own specific appearances. They enable the moralist, in particular instances, to ascertain what is good for mankind; and to form a regular system of moral estimation and precept, throughout all the subdivisions of *law*, of *manners*, or political *institutions*.

We may, or may not, conceive the power of discerning between excellence and defect, as a faculty inherent to intelligent being. To such being, indeed, it appears essential to be conscious of himself; and in his attainments, whether actually varied, or only conceived to be variable, it may be essential that he consider unequal degrees of *excellence* and *defect*, as measures of the *good* or the *evil* of which he himself is susceptible. Created intelligence may advance in the use of this discerning faculty, and have a continued approach to the model of divine wisdom; a termination from which its distance may diminish, but at which it never can arrive.

The essence of almighty God we must conceive to be most *simple*; being that which necessarily exists from eternity. Of his supreme intelligence, we have full evidence in the system of nature; and of his distinguishing the opposite conditions of moral good and evil, there is equally irresistible proof.

The distinction of excellence and defect originates in the unequal  
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conditions of mind, and the discernment of such condition is not only peculiar, but necessary also to the course which created beings of this order are destined to run. Hunger and thirst, or any other incitement to self preservation, is not more essential to the animal frame, than the preference of what is perfect, to what is defective, is to the constitution of mind : It is a preservative of reason, a main spring of exertion, and a principle of advancement, in the track of intelligent nature.

Hence it is that numbers of men, who are far from conceiving virtue as the constituent of happiness, nevertheless consider it as the constituent of excellence and perfection, which they behold with respect and esteem.

Man alone in this animal kingdom, for ought we know, apprehends the gradation of excellence in the scale of being; and, though all men are agreed upon the reality of a comparative eminence, in the ascending steps of this scale, it may be difficult to assign the principle of estimation, so as to justify the preference which is given to one order of being above another. Mr Buffon ascribes this preference to the greater number of relations, which certain orders of being bear to the system of nature around them \*. “ In the multitude of things  
“ presented

\* Dans la foule d'objets que nous presente ce vaste globe dont nous venons de faire la description, dans le nombre infini des differentes productions, dont la surface est couverte et peuplee, les animaux tiennent le premier rang, tant par la conformité qu'ils ont avec nous, que par la superiorité que nous leur connoissons sur les etres vegetans ou inanimés. Les animaux ont par leurs sens, par leur forme, par leur mouvement, beaucoup plus de rapports avec les choses que les environnent, que n'en ont les vegetaux; ceux-ci par leur developpement et par leur differentes parties, ont aussi une plus grand nombre de rapports avec les objets extérieurs, que n'en ont les minéraux ou les pierres, que n'ont aucune sorte de vie ou de mouvement, et c'est par ce plus grand nombre de rapports que l'animal est reellement au dessus du vegetal, et le vegetal

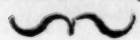
“ presented on this globe ; in the infinite number of different  
 “ productions, with which its surface is covered or peopled, the  
 “ animals,” he observes, “ occupy the first or the highest rank,  
 “ whether by their resemblance to us, or by the superiority  
 “ which we perceive in them, to the vegetable or inanimate na-  
 “ tures. The animals, by their make and by their sensitive and  
 “ moving powers, have many more relations to the subjects a-  
 “ round, than the vegetables have. These, in their turn, by the  
 “ unfolding of their parts ; by their figure, their organization,  
 “ and growth, have many more relations than the minerals, or  
 “ any mere lifeless mass of matter. And it is by virtue of this  
 “ greater number of relations, that the animal is superior to the  
 “ vegetable ; and the vegetable is superior the mineral. Even we  
 “ ourselves, considered in respect to the material part of our  
 “ frame, are not otherwise superior to the animals, than by a  
 “ few relations more, such as accrue to us from the use of the  
 “ hand and the tongue ; and, though all the works of God are  
 “ in themselves equally perfect, yet, in our way of conceiving  
 “ them, the animal is most compleat ; and man the master-piece  
 “ of all.”

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This is, perhaps, the first attempt that ever was made to give  
 a reason why animals are reckoned of a higher order than plants,  
 and these of a higher order than minerals or unorganized matter  
 of any sort. And though no one disputes this order of things, yet  
 this attempt to explain it will scarcely appear satisfactory. Many  
 will

vegetal au dessus du mineral. Nous meme, a ne considerer que la partie materielle  
 de notre etre, nous ne sommes au-dessus des animaux que par quelques rapports de plus,  
 tels que ceux que nous donnent la langue et la main ; et quoique les ouvrages du  
 Createur sont en eux-memes tous egalemeut parfaits, l'animal est, selon notre facon d'  
 apercevoir, l'ouvrage le plus complet de la nature, et l'homme en est le chef d'oeuvre.

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will be ready to ask, why estimation should keep pace with the number of relations, which a subject bears to other parts of the world around. One relation, compleatly and beneficently adjusted, may be preferable to many. And, if a beneficent purpose can be obtained by one relation, however simple, the multiplication must appear rather a defect than a beauty. It appears, indeed, that where a number and variety of expedients or relations are wanting to obtain a purpose, the disposition and ability to combine such a variety to one common beneficent end, is a great perfection in the power by whom such arrangement is made. When man has formed to himself any number of relations to the subjects around him, such as he bears to the field he has cultivated, the city he has built, the work of any kind he has performed, the law or institution he has adopted; in such relations, indeed, the superiority of his own nature appears: But, in what his Maker has done for him, or for the other animals; in what is done for plants and minerals, it is the majesty of God that we revere; and the relations of things merely inanimate serve only as the steps, by which we are led to contemplate the wisdom and goodness of the first cause.

In this sense, we already observed, beauty and excellence are ascribed to material subjects. And the inequality of rank which appears so real in the system of things, is a mere gradation of the lustre or effect, with which intelligence, or its principal features of goodness and wisdom, are made to appear in the different orders of being. The eloquent naturalist, cited above, seems to drop his arithmetic of relations, when he considers the pre-eminence of intelligent forms: in the system of nature. For he applies it only to the material part of man; and, in reality, mere number of relations could ill account for the superiority of any nature whatever; as the relation between any

two species of being must be mutual, and in point of number at least the same; for so many relations as man has to the system of nature around him so many precisely must the system of nature have to him. But no one ever questioned the pre-eminence of intelligent being; ever required an account to be given of it; or desired to know by what faculty it is perceived. Dimensions are measured by some standard quantity of the same dimension; length, by some standard measure of length; and solid content, by some standard measure of solid dimension; and why not intelligence, also, by some standard conception of intelligent nature. The degrees to be estimated consist in variable measures of wisdom and goodness; and whoever has an idea of these, will judge accordingly of the specimens that approach to the standard, or of the defects that come short of it.

Some who have carried the analogy of animal sense and perception into this subject, have started a question, whether moral excellence be not a secondary quality; that is, like the perception of smell, sound, or taste, if it may not proceed from a cause in nature very different from that we conceive \*? But in the esteem of wisdom and goodness, there is not any danger that the quality we conceive is different from the quality that exists, as our conception of sound is different from a tremor in the particles of air: for it is the very existing thing itself of which we have a conception, taken indeed from feeble, occasional, and passing specimens, but easily abstracted by us from their defects and imperfections, to serve as a standard of estimation for what we propose as the model of excellence, wherever our judgement applies or wherever a choice is to be made.

If

\* Vide Lord Kames' Moral Essays.

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If we are asked, therefore, what is the principle of moral approbation in the human mind, we may answer, It is the *Idea* of *perfection* or excellence, which the intelligent and associated being forms to himself; and to which he refers in every sentiment of esteem or contempt, and in every expression of commendation or censure.

Nay, but mankind are not agreed on this subject; they differ no less in what they admire, than in what they enjoy. The idea of perfection no doubt may be associated with subjects divested of merit: But notwithstanding the effect of such association in warping the judgement, virtue is approved as the specific perfection or excellence of man's nature; and as no one ever inquired why perfection should be esteemed; it is difficult to conceive why they should look for any other account of moral approbation than this.

From the predilections of birth and fortune, few, if any, are altogether blind to the distinctions of wisdom and folly, of benevolence and malice, of sobriety and debauchery, of courage and cowardice. And if these characters of mind could be perceived without the intervention of external signs; the difference of judgement on the subjects of moral good and evil would, in a great measure disappear; or there would not be so much diversity of opinion as we observe amongst men, concerning the forms or description of virtue. But the external actions which may result from any given disposition of mind being different in different instances, may occasion a difference of judgement, or a variety of custom and manners; and suggest the necessity of a principle or standard of estimation, on which their rate of merit or demerit may be safely established. We accordingly proceed to the consideration of these particulars.

## S E C T I O N IV.

*Of the Difficulty of reconciling the different Judgements of Men relating to the Morality of External Actions.*

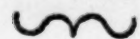
WHEN the reality of any moral distinction is questioned, we naturally refer to the general sense of mankind on the subject. To give this evidence, however, its full effect, in supporting the reality in question, it is supposed, that mankind ought to be unanimous in their verdict, and agree, not only in admitting, that there is a distinction, but agree also in the description of subjects, or in the choice of particulars, to be ranged under the opposite predicaments of moral good and moral evil.

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If men, it may be alleged, have a disposition to select objects of commendation and censure, and yet are not agreed in their choice, we must suppose their difference of judgement to arise, not from a want of disposition in them to find out the truth, but from the want of a sufficient difference in the nature of things to lead or to establish their judgement.

Sceptics

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Sceptics, accordingly, in order to repel the evidence of reality in matters of moral distinction, refer to the contradictory notions of mankind, on the subject of manners.

“ Mankind,” they observe, “ blame in one person, and in one case, what they applaud in another. Thus, to deceive or to kill is in one instance condemned, in another is applauded or permitted. What is held forth as a subject of praise in one age or country, is overlooked or neglected in another. What, in one age or nation, is permitted as allowable or innocent, in another is reprobated and abhorred, under some denomination of impiety, incest, or blasphemy \*.

“ Certain forms of behaviour, forms of expression or gesture, are in one country, or amongst one set of men, required to good manners, or received with complacency ; whilst they are considered as an unpardonable injury or insult in other nations, or in other companies.

“ In one nation, we are told, it is reckoned an act of filial piety for a son to kill his superannuated parent ; in other countries, this, though we should suppose it to be done with consent of the person suffering, would be detested as a most horrid instance of murder and parricide.

“ The definitions of crimes vary in the laws of different countries : Infomuch, that what is destined to severe punishment in one

\* Profana illic omnia, quæ apud nos sacra ; rursum concessa apud illos, quæ nobis incesta.

Tacitus de Judæis, Hist. lib. v. c. 4.

“ one country, is suffered, in another, to escape with impunity, even  
 “ without censure. Thus, theft, which was punished at Athens,  
 “ was encouraged in Sparta.

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“ All men are loud in commendations of virtue; but observe  
 “ their applications of this term, how different in the detail of  
 “ particulars? Among the antient Romans it meant valour a-  
 “ lone. Among the Jews it meant zeal for their own institutions,  
 “ and animosity to the rest of mankind. Among housewives it  
 “ means œconomy and notable industry. In Italy it means a  
 “ taste for antiquities, and curiosities of nature or art.”

From the whole of these instances it is proposed to infer, that there is not any certain rule of approbation or disapprobation respecting the manners or behaviour of men. And notwithstanding the essential felicity and merit of wisdom and goodness as qualities of intelligent being, it must be allowed to follow from such varieties of apprehension, respecting the morality of external action, that the distinction of right and wrong cannot be taken from the mere physical action itself, or that mere external movements of the body have not the same power to command our moral feelings, as they have to command our perception of their form and physical effect.

When the shutters of a window are opened, and the light is admitted, every object in the room is illuminated; vision is distinct to all who have organs of sight, and the perceptions of magnitude, figure, and colour are the same to every one present. When certain tremors are produced in the air, every ear is struck with the sensation of sound; and however one person may differ from another in his conjectures respecting its cause, or even re-

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specting

pecting the musical effect, the tone produced is the same to every one by whom it is heard.

The same thing may be said with relation to the form and consequence of any action or movement of the body. All who are present perceive the same physical operation, and the same continuance or change of condition in the subject affected by such operation. A life may be taken away or preserved in their sight, and there is no difference of perception respecting the physical cause or the physical consequence. May we not presume, therefore, that if moral right and wrong were equally apart in the form of an action, as is the physical description of it, the perceptions of men in this respect also would be equally uniform.

The contrary, however, is observed to be true. The same physical action in one instance is applauded as a virtue, in another instance is reprobated as a crime; or rather, to speak with more propriety, where the physical action is the same, the moral action is altogether different; and is an object of approbation or disapprobation, corresponding to that difference of the moral quality.

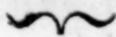
For an example, in which the physical action may, in repeated instances, continue the same, while the moral action is extremely different; we may suppose the death of a man, effected with a sword, in the manner in which executions in some countries are performed; in which assassinations are committed; and battles are fought. In all these instances the physical action may be precisely the same, and every spectator have the same perception of it; but the moral action may be, and frequently is, extremely different.

To

To devise the death of a man is criminal in the *robber*, who, to strip the traveller of his property, attacks him on the high way. It is criminal in the *assassin*, who, from jealousy, revenge or malice prepenſe in any other form, lays a ſnare for the life of his neighbour. But in a perſon who *defends* himſelf, in a *judge* who has condemned a criminal, or in the officer who conducts the execution of a *juſt ſentence*, the ſame phyſical action may be *innocent*; may be the diſcharge of a *duty*, or an act of *public juſtice*. In a ſoldier, who, at the hazard of his own life, kills the enemy of his country, the material effect produced is pre- ciſely the ſame, with that which is criminal in the *assassin* or in the robber. But the moral action in theſe inſtances is extremely diffe- rent: In the firſt it is eſteemed as of the *highest merit*, in the others it is condemned as of the moſt *atrocious guilt*.

Under this ſeeming difference of judgement reſpecting the ſame action, there is actually no more difference reſpecting the moral apprehenſion than there is reſpecting the phyſical effect. While every one perceives that a man is killed, every one perceives alſo that the *assassin* or the robber did wrong in killing him; that the ſoldier acting in defence of his country, or the officer of juſ- tice in execution of a legal ſentence, did right. In the *assassin* or robber this phyſical act was an act of malice or rapacity; in the judge, magiſtrate, or ſoldier, it was an act of public juſtice or heroic valour: And mankind, we may repeat, are as little at variance with reſpect to the moral quality of the action in either caſe, as they are with reſpect to the mere form or deſcription of the phyſical operation.

We are familiar with this diſtinction between the phyſical and

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the moral action, under a variation of circumstances which diversify the case: And though the difference of judgement is more striking in such instances than it is in any other; yet no one thinks himself authorised from thence to question the reality of moral distinctions. There are indeed no specimens of moral good and evil more striking than those which are presented by the same physical action, performed by different persons and in different circumstances; from the motives of benevolence and duty, on the one hand, or of malice and depravity on the other.

Every one is aware of the different judgements to be given where the cases are different; and to give the variety of judgement an appearance of contradiction in the estimate of moral good and evil, we must have recourse to examples less familiar and in which we are less qualified to distinguish the moral from the physical qualities of an action. We are at a loss, for instance, when we are told, that what is punished as a crime in one country is rewarded or commended as a duty in another; because we are not qualified to perceive in what manner the moral action, under a different set of manners from our own, should be differently *understood*, or in what manner the same moral action should result from physical performances extremely different.

This defect, however, may be easily supplied, if we consider, first of all, that men have different opinions respecting external objects, and in one country value that as an honour or a benefit, which in another is rejected as pernicious, or as an insult: Farther, that many of the actions of men are considered more as *expressions* of what they mean or intend, than as operations materially beneficial or hurtful. In the first instance, men proceed up-  
on

on different notions of what is beneficial or hurtful. In the other they express or interpret their intentions differently.

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In some countries honour is associated with suffering, and it is reckoned a favour to kill, rather with circumstances of torture than otherwise. This is confirmed in our account of the manners of some American nations; and in the fortitude with which an Indian matron submits to extreme suffering by fire on the funeral pile of her deceased husband. She courts the flames, with a zeal and enthusiasm more ardent than that with which she resorts to the bridal bed, or should mount the throne of state in a terrestrial kingdom. Whatever conceptions mankind may have formed of external objects and circumstances, as matters of desire or aversion, it is natural for the benevolent to do what he himself and the world around him conceive as a benefit, and to avoid doing to others what they, or he himself, conceives as harm or an insult: And as it is a maxim in law "*Volenti non fit injuria*"; so it is naturally apprehended, under a variety of opinions respecting external objects, that it is beneficent to treat every person in the manner which he himself conceives to be beneficial or kind.

The safety and the justice of this maxim, respecting matters of a certain consequence to the welfare of mankind, may no doubt be questioned; and errors of choice, where they do not proceed from malice may be imputed to folly; but the rule that every one is to be served or obliged in his own way, ought not to be questioned respecting matters of indifference, or of small moment. These are variously employed by nations, as the signs or expressions of good or ill disposition; in the same manner as, in the use of language,  
words,

words, or articulate sounds, are adopted as the signs or expressions of meaning, intention, or will.

Of this sort, no doubt, is much of the form and ceremonial of common life. It is the form of respect in Europe to uncover the head: In Japan, we are told, the corresponding form is to drop the slipper, or to uncover the foot. The physical action in these instances is different, but the moral action is the same. It is an act of attention and respect; dispositions equally acceptable, whether expressed in words, gestures, or signs of any other sort.

Persons, unacquainted with any language but their own, are apt to think the words they use, natural and fixt expressions of things; while the words of a different language they consider as mere jargon, or the result of caprice. In the same manner, forms of behaviour, different from their own, appear offensive and irrational, or a perverse substitution of absurd for reasonable manners.

To the ignorant or to the proud, who consider their own customs as a standard for mankind, every deviation from that standard is considered, not as the use of a different language and form of expression, but as a defect of reason, and a deviation from propriety and correctness of manners.

Among the varieties of this sort we find actions, gestures, and forms of expression, in their own nature indifferent, entered into the code of civil or religious duties, and enforced under the strongest sanctions of public censure or esteem, or under the strongest denunciations of divine indignation or favour.

Numberless ceremonies and observances are adopted in the ritual of different sects, for the same reason that words are adopted in the vocabulary of different languages, though with a different effect on the minds of ordinary men.

In religion, the rite is supposed to be prescribed by the same authority to which the forms of devotion are addressed. The neglect of it is supposed to constitute offence before that tribunal whose condemnation is fatal. The substitution of any other rite is supposed to be profane, or an unpardonable insult to the object of worship. Under these apprehensions, arbitrary signs of devotion are supposed essential to religion; and deviations from the established practice, or any variation in the use of such signs, is pursued with that vengeance which the zealot thinks necessary to recommend him to God.

In many examples of this sort; as in the use of different languages, the people have not a different meaning, but merely a difference of the sounds in which their meaning is expressed; so in the rites of devotion or worship, they admit a variety, not of the sentiment but of the external performance, which they employ as a sign or expression. And if in the different forms and ceremonies, which they practise, in their own nature indifferent or innocent, they equally mean to acknowledge and to adore the intelligent power and moral government of God; the zeal with which they condemn and persecute one another, on account of such difference of forms and ceremonies, is no way more rational, than it would be to foster national animosity on the score of a different language or accent of speech.

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This use of external action, as a sign for the purpose of mere expression, is not confined to observances in their own nature altogether indifferent: Men freely incur physical inconvenience for the sake of supposed moral good; and actions, in their physical tendency actually pernicious or useful, are often more considered in respect to the meaning and intention of those who perform them, than in respect to the actual benefit or harm, which they are supposed to produce. A kind intention, made known in any trivial matter, operates more powerfully on the affections, than gifts of the greatest moment, bestowed in a manner less gracious, or less expressive of kindness.

Injuries are not always measured by the actual harm which is done, nor malicious intention inferred in the highest degree, from the nature of the weapon with which a person is assaulted. A gentleman in modern Europe, as we have formerly observed, is more offended with the stroke or threat of a stick, than with the wound of a sword.

These are no more than instances of the power of opinion, and habits of thinking, by which things, in their own nature agreeable or disagreeable, are associated in the same conception with feelings and qualities of the mind with which they have not any necessary or original connection.

From the whole of these observations, then, we may conclude, that, without any variation in the ideas of *excellence* and defect, men may vary in their judgement of external actions. A different person, or the same person in different circumstances, may act differently, and in this there is nothing to unsettle the judgement

ment of moral *right* and *wrong*. Different opinions relating to external effects, whether supposed beneficial or hurtful, may lead men, with the same candid or malicious intention, to act and to judge very differently. Any action, that is considered merely or chiefly as an expression of will or meaning, may be differently understood in the form of different countries; and in none of these instances is there implied any difference of apprehension relating to the intimate nature of moral *good* and *evil*. The first may be termed a difference of the *case*; the second a difference of *opinion*; and the third a *difference of interpretation*.

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What is observed of a difference in the laws of different countries, or in the terms of a different language, will be equally found not to affect the original or the essential distinction of moral right and wrong.

We are not to expect, that the laws of any country are to be framed as so many lessons of morality, to instruct the citizen how he may act the part of a virtuous man. Laws, whether civil or political, are expedients of policy to adjust the pretensions of parties, and to secure the peace of society. The expedient is accommodated to special circumstances, and calculated to repress the specific disorders peculiarly incident to particular situations.

The higher duties of morality, beneficence, and fortitude can seldom if ever be made the subject of law. The vilest of moral depravities, envy, and malice, can only be restrained from a few of their overt or most flagrant effects. The law must be contented to restrain such open and flagrant disorders; and, where the people are prone to any particular species of irregularity, the law may be

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especially directed to reform it, or even with greater severity punish, the first approach to such irregularities, and treat such approaches as a greater crime than even the perpetration of greater evils, to which the people are less disposed, and from which the public therefore has less to apprehend.

In some of the smaller states of Italy, where family feuds and quarrels so often prevailed, it was made capital, we are told, to shed a single drop of blood in the streets. Where frauds committed on the revenue are more frequent, and more to be apprehended than private robberies, the law naturally directs its severity to the quarter from which the public interest is most deeply annoyed. And its enactments are to be considered, not as instructions of morality, but as the convention of parties particularly situated, and mutually engaged to support the cause of a community, depending on circumstances peculiar to their own situation.

If the law, in this manner is to be considered as a local expedient provided for the welfare and peace of communities; the language of the people, we may believe, is not always calculated to express the mere abstract distinctions of right and wrong; but to discriminate virtue and vice under such diversities of external form, as they most frequently take in particular circumstances, and under specific systems of manners. Fortitude is made to express not mere strength of mind in the abstract; but has a reference, at the same time, to the particular and more ordinary form in which there is occasion to exercise this virtue; whether in heroic patience or military valour. Goodness is not employed to express benevolence in the abstract, but has a reference to the form in which there is the most frequent occasion to practise beneficence,

whether in charity to the poor, and in relieving the distressed; or in acts of public service, and private humanity or candour.

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In every language there is a multiplicity of terms in which general praise and blame are expressed; but of such terms it is observed, that no two are synonymous. There is implied in every term of praise a complication of circumstances. In some principal parts of the combination the terms agree, but in some other part, perhaps, in some minute circumstance of the occasion on which the good qualities are displayed, or of the effect they produce, the meaning of the term is, in some degree, diversified, so that any one of the terms so distinguished cannot, with propriety, be substituted one for another. Honesty cannot be substituted for probity, however nearly approaching in their meaning; nor is goodness with propriety substituted for either.

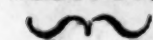
In the general appellation of a good man, beside the more important conditions of humanity, faithfulness, and beneficence, which recommend one man to another, there is, in particular situations, some reference to particular circumstances, to which persons in those situations have peculiar occasion to attend; as, among merchants, the qualities of punctuality and regard to credit, which mutually recommend the parties in their dealings with one another; in literary societies, learning and genius; in national councils, and public assemblies, masterly judgement, and powerful expression; in warlike nations, manhood and military valour; and men, in all these different instances, bestow the general term of praise, with a particular implication of the circumstance peculiarly required in their own condition.

Words derived from the same stock, and passing into differ-

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rent languages, thus assume, in some particular respects, a different meaning in the application made of them by different nations. As from the *honestum* of the Romans, is derived the *honesty* of the English, and the *honneteté* of the French; but whoever should translate the one into the other, would lose the meaning of his original, and substitute different circumstances of commendation, in passing from one language to another; not because these nations have different ideas of what is commendable; but because they have come to express different articles of commendation in a term of the same origin.

What is commended by one nation in any given term of praise, is commended by another in a different one; and they disagree in the use of words, not in conceiving the distinctions of right and wrong; for each is ready to acknowledge the value of what the other commends, as soon as he understands the meaning of the word in which it is commended.

SECTION

## S E C T I O N V.

*Of the Fundamental Rules of Morality relating to External Actions.*

THE first law of morality, relating to the mind and its affec-  
 tions, requires the love of mankind as the greatest good to which  
 human nature is competent: If it should appear that mankind  
 are not agreed in the description of external actions that flow  
 from this principle, nor in the choice of favours to be expected  
 from the beneficent, it may be asked, by what rule is the friend  
 of mankind to conduct himself? What is the harm from which  
 he is to abstain, and what the good office which he is to perform  
 to his fellow creature?

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To this question we may answer, in general, that, notwith-  
 standing the varieties of manners, in different ages and nations,  
 and the different interpretation of favours or offences, which in  
 the stile of declamation, may be made to appear so formidable  
 and so perplexing, in the choice of virtuous actions; yet, that  
 mankind in reality do not so far mistake the pernicious for the  
 useful,

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useful, nor the destructive for what tends to their preservation, as that the beneficent needs to be at a loss, in determining what is in him a natural effect of benevolence or of good will to his fellow creatures. In every particular society, these points are settled; and few have occasion to transfer their beneficence from one scene to another, in which the constituents of a benefit are differently conceived or differently understood.

Notwithstanding the diversity of opinions which men may be supposed to entertain, with respect to the morality of particular actions, yet, in every age and nation, in every rank and condition of men, there is a rule of propriety, which, though it may be different in different instances, is to each the canon of estimation, and the principle from which they are to judge. Admitting such differences, then, as they affect particular articles of propriety, this may be laid down as a law of external action for mankind;—That, in matters physically indifferent or of small moment, men are to observe the rules established in their own country or in their own condition; as they speak its language and wear its dress: That, in judging of behaviour, in other countries, or in other situations, they are not to estimate proprieties of conduct by the standard of their own manners or customs; but, to allow every nation the free and distinctive use of its own.

This rule applies chiefly, if not wholly, to matters of propriety, decency, and common civility; with respect to which, it is obvious, that as the object is to do what is inoffensive, what is agreeable or obliging, it is proper that the person, acting in matters physically indifferent or of small moment, should consult the opinions of those he would oblige rather than his own.

Even,

Even, in matters not altogether physically indifferent, and in respect to which unequal degrees of conveniency or inconveniency may be apprehended in the practice of different nations; it would be an error in point of propriety if any one should deviate from the manners of his own country, under pretence that he meant to substitute what he thought an improvement. He might, in the same manner, apprehend, that the language of his own country were inferior to that of a neighbour, or the fashion of its dress less convenient; but, any extreme or singular affectation of thus deviating from what is common in such matters, under the notion of exhibiting somewhat superior, is ever stigmatized, or is considered as the mark of a fool or a coxcomb.

Where nations, or different ranks and conditions of men, vary from one another in such immaterial forms and observances, they are said to differ in point of manners; and, as they are severally to be judged of by the standard of their own custom or practice, none has a right to apply that standard, in estimating the manners of others. This rule may be applied, not only to matters purely arbitrary, like the forms of salute, or the titles of address, but even to all those matters, to which men though not originally indifferent, are in effect by custom or habit, reconcilable, or attached. Though to others from an opposite custom and habit, such examples may appear awkward or absurd, it is not to be expected of persons in any particular age, nation or rank, that they should have any apprehension in such matters different from that of their own nation, condition, or age.

Men of all ages and nations however have been generally disposed

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posed to trespass on this rule, and to judge of other men by the standard of their own manners and customs. This error is equally the concomitant of ignorance and of national pride, and few are qualified to distinguish what is essential in the character of nations from what is an article of variable institution or custom, and though supposed erroneous, yet consistent with the noblest qualities of the mind. Homer sung of great men, who performed for themselves the functions of butcher and cook, and who served up the mess on which their guests and themselves were to feed: He is therefore said by a late celebrated wit, to have sung of coarse or inelegant heroes\*: But the manners of men are variable in different ages; and the same virtues and vices, the same elevation or meanness, may be exhibited under this or any other variety of manners. The moral of Homer has accordingly been equally admired by those who could hire butlers and cooks to serve them, as by others who themselves dressed and served up their own provisions. In this matter the Roman critic appears to have differed from the French one.

*Trojani belli scriptorem, maxime Lolli,  
Dum tu declamas Romæ, Præneste relegi;  
Qui quid sit pulchrum, quid turpe, quid utile, quid non,  
Plenius ac melius Chrysippo et Crantore dicit.*

This latitude of judgement, however, relating to the variety of manners, which may be admitted, as consistent with equal or superior degrees of merit in different nations, hath limits beyond which it cannot be safely carried. Should we suppose a nation to reject what is evidently salutary, and to prefer a custom  
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\* "D' avoir chanté des heros grossiers." This expression is to be found somewhere in Voltaire's Works.

which is pernicious ; this, no doubt, would come under the denomination of absurdity and folly, rather than a mere variety of manners : It would furnish other nations with a subject of just ridicule or censure, and justify the individual, when better informed, in counteracting the practice of his own age or country. The virtuous citizen in such instances strives to preserve his country, although the practice in fashion should tend to its ruin.

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Virtue is so far from being valuable, merely on account of its external effects, that the greatest and most beneficial effect it can produce is the communication and propagation of virtue itself ; " You will serve your country more," says Epictetus, " by raising the souls, than by enlarging the habitations of your fellow citizens." And this is the greatest benefit which any man can receive from his virtuous neighbour, that he become, like him, wise, courageous, temperate, beneficent, and just.

Fashion sometimes leads to effeminacy, servility, prodigality, and debauchery. Where nations differ from one another in these respects, they are justly said to exhibit, not a difference of manners merely, but certain degrees of corruption and depravity. If they should be ignorant or insensible of the pernicious tendency of what they do, even this ignorance or insensibility is a heavy article in the charge of corruption or vice to which they are exposed, and it must be admitted, that the singularity of an individual, which in any instance of mere arbitrary manners were an error and a blemish, would in such instances as these be a merit and a just topic of praise. *Among the faithless faithful only he*, is made the distinction of an angel of light \*.

It must no doubt therefore be established as a rule of action,  
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\* See Paradise Lost.

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that wherever the manners of our country are dangerous to its safety or have a tendency to enfeeble or to corrupt the minds of men; to deprive the citizen of his rights; or the innocent of his security; it is our duty to do what is for the good of our fellow creatures, even in opposition to the fashion and custom of the times in which we live.

Some rites in religion, as well as observances in the ceremonial of life, are of a nature physically indifferent, and fit to be retained as mere arbitrary signs or expressions of the affection, which religion or good manners require. But, as there is a merit in resisting practices extremely inconvenient, though required under the notion of good manners; so there is wisdom in abstaining from acts of cruelty, though required under the notion of devotion or sanctity.

The human sacrifice performed, or the cruel persecutions that have been practiced under this notion, did not proceed, like the voluntary sufferings of the enthusiast, upon an idea, that it was good for himself to suffer; but upon an idea, that the Deity who requires such victims is jealous, vindictive, and cruel; or is to be gratified with the infliction of human misery: And such practices, therefore, are to be counteracted, not merely as a mistake of what is beneficial or salutary, but as a corruption of religion itself; and as a substitution of malice or cruelty, where the mind should be taught only to form to itself models of perfection and goodness, as incitements to veneration and love.

SECTION

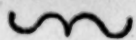
## SECTION VI.

*Of the same Subject, continued.*

IT is observable that, in many things, whether useful or necessary there is a certain measure to be kept preferably to any other whether greater or less. The less is defective, and inadequate to the occasion, the greater is excessive and erroneous. The just *mean* is learnt by experience; and, when known, is the proper object of choice.

It is not uncommon to consider *virtue* itself as a *mean* between two extremes towards either of which any deviation from the middle path is vice. Thus *liberality* is considered as a *mean* betwixt *prodigality* and *avarice*; *bravery* as a *mean* betwixt *temerity* and *cowardice*; *temperance* as a *mean* betwixt hurtful *abstinence* and *pernicious excess*.

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*Est modus in rebus, sunt certi denique fines,  
Quos ultra citraque nequit consistere rectum* \*.

This method is adopted in one of the most elegant and masterly productions of antiquity, on the subject of ethics or manners †; and there is no doubt, that propriety of conduct may be rendered perceptible and evident, not only when single actions are separately described, but also when placed in contrast with any deviation from what is right, whether on the side of *defect* or *excess*.

Such illustrations, however, if useful in treating of the external effects of virtue, may rather serve to mislead, in considering the excellency or depravity of mind, from which those effects proceed.

*Wisdom* and *goodness* are absolute, not relative, subjects of esteem. There may be a *defect* of either, but no *excess*. In the defects of intelligence, there is folly; but, in the highest measure of which it is susceptible, there is no blameable extreme of wisdom. There is no extreme of justice; nor in the mind, be the quality of whatever denomination, is there any extreme of what is right.

In practice, indeed, beneficent intention may produce too much or too little effect. The proper medium or mean, betwixt the extremes, to be found by observation or experience, is itself

\* Horace.

† Aristotle's Ethics.

itself derived from a previous knowledge of what is right; and is not by any means to be considered as an original standard of choice, even in matters of external convenience.

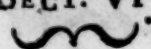
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*Mediocrity* is certainly, not always upon its own account, an object of estimation. In matters, rather ornamental than necessary to human life, it is the reverse of a commendation. In matters of genius, for instance, whether *poetry, eloquence, politics, or war*, it is better not to have any pretensions, than to have a *mediocrity*, which is likely to engage the person possessed of it in a course, of which he is not likely to attain the end. It is better to follow tamely in the track of others, than to affect the command, or the display of abilities, which mislead or disgust the more, that they substitute a *mediocrity* of effect, where an exertion of the highest degree is required.

Wherever the *mean* betwixt two *extremes* is the preferable object of choice, it seems to be fixed by its comparative utility, not by any original perception of merit, in *mediocrity* itself, considered apart from its use. In the extreme of too little, there is a defect of utility; in the extreme of too much the excess is pernicious: And the salutary, or most useful measure, is that which determines the middle way to be chosen between the extremes: So that we are to look for the rule, by which this *mean* is to be distinguished, and the very consideration which recommends it in the circumstance of its absolute utility, or fitness to serve the purpose of nature.

If the ill effect of extremes suggest the expedience of recurring to the proper mean in every instance of human conduct, some apprehension of the proper measure or end of action is necessary  
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to point out the evil of extremes, which consist in a deviation from the middle path towards either side, of excess, or of defect. And, if the consideration of *extremes* serves to illustrate the *mean* betwixt them, it is evident that the knowledge of that *mean* is required to point out the boundaries beyond which all that exceeds, or falls short, is in *extreme*, and pernicious.

## SECTION VII.

*Of the unequal Degrees of Merit and Demerit in External Actions.*

**MERIT** is the presence of that quality which, whatever it be, is the object of moral approbation; *demerit*, on the contrary, is the absence of such quality; or the presence of any quality which is the object of disapprobation.

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From the observations, that have occurred under a few of the preceding titles, it should appear, that neither mediocrity of effect, sympathy of feelings, nor actual utility, is the specific object of moral approbation; that moral good and evil are peculiar to mind; and that the *merit* of an action, or the object of moral approbation in any action, is the presence of qualities which constitute the specific excellence of mind: Such are *wisdom*, *goodness*, *temperance*, and *fortitude*. That efforts of *benevolence*, or good will to mankind, properly supported with intellectual ability, application, and resolution, constitute actions morally good. That

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*malice*, however directed or supported, constitutes an action morally evil.



This distinction is, to us, not only matter of perception and discernment, but awakens a sentiment or passion, by which we are disposed to accumulate *good* on the *good*, and *evil* on the *evil*. While we perceive that beneficence is a blessing, we would willingly confer additional blessings. Perceiving that malice is a curse, we would willingly inflict additional suffering. This sentiment is partly implied or expressed in the terms of *merit* and *demerit*.

That the good deserves to be rewarded, and the evil to be punished, is an apprehension which we are born to entertain, and is justly considered as a symptom or earnest of the moral government of God, under which men being inspired with a disposition to distributive justice, become instruments of Providence for its actual effect. This disposition operates most powerfully, perhaps, in its animosity to what is *wrong*. The right is firm upon its own foundation, and needs not the prop of extraneous reward; while the wrong seems to call for interposition, to prevent, repel, or repair its effects.

Hence it is that *wrongs* are distinguished under their respective denominations of *guilt* or *demerit*, more precisely, perhaps, than the opposite degrees of merit. The *right*, however, also has its gradations, and the actions of men their unequal measures of approbation or esteem. Actions, which indicate good will to mankind in the highest degree, are those commonly which we conceive to be of the highest *merit*; as the effects of malice pre-pense are, on the contrary, of the highest *demerit*; and thus the presence of good or ill disposition is not only attended with moral

ral approbation or disapprobation ; but the measure of the effect, in such instances, is also ever found in just proportion to that of the cause.

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Perseverance in the exercise of any good disposition, is admitted as an evidence of its power ; or is the indication of a mind exempt from those passions or views which occasionally mislead the will, or interrupt the tenour of a virtuous conduct.

Hence it is, that a beneficent course of life, uniformly pursued ; that duties performed in the midst of *difficulty*, *danger*, or unmerited *obloquy*, in the midst of *allurements*, that would *seduce*, in the midst of *pain* or *suffering*, that would depress the mind, or daunt the resolution, as they carry evidence of a disposition proportionally vigorous and unshaken, are justly estimated of the highest *merit*.

Hence it is also, that superstitious Asceticks having a view to the circumstances that would prove the force of a virtuous affection, if any such actually existed, while they withdraw from the world, and shun every occasion on which good dispositions towards mankind are exerted, mistake fasting, abstinence, and corporal penances, for articles of merit towards God. They attach the esteem that is due to *merit* to the circumstances of difficulty or suffering, in which merit if real might shine out with advantage ; but which voluntarily incurred, and without any rational object, only give evidence of misapprehension and folly.

Besides the immediate effects of wisdom and benevolence, which form the highest order in the scale of *merit*, there are articles of inferior consideration, such as propriety, decency, civility and

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politeness, which may proceed from a disposition or habit of doing that which is agreeable, or of avoiding that which is offensive to others; a disposition in its own nature exquisitely amiable, and whose effects are esteemed proportionally to the evidence they bear of its reality; although, from the mere occasions on which it is exerted, the highest measure of virtue could not be inferred.

In comparing such examples together, we find, though without any precise distinction of name, a gradation in the scale of *merit*, by which men in the course of life are unequally the objects of approbation or esteem.

At the same time, there is a corresponding gradation in the scale of *demerit*, which is not perhaps more obvious; but is thought to require a more pointed discrimination of names, such as those of *crimes*, *offences*, and *faults*.

*Crimes*, or actions of the highest demerit, are such as proceed from malice, under any of its ordinary forms, whether of *envy*, *emulation*, *jealousy* or *revenge*; or such as proceed from any habit or passion, as from *covetousness*, *sensuality*, or *ambition*, in gratifying of which the criminal has occasion deliberately to trespass on the rights, or to disturb the peace of his fellow creatures.

When the crime proceeding from one or other of these motives is committed under circumstances of peculiar trust, or against persons peculiarly entitled to respect and affection, the atrocity of guilt or degree of demerit is rated accordingly; and pernicious actions, performed deliberately, intentionally or knowingly, though not originally suggested by malice, yet as they imply great defect

defect of the opposite good dispositions of humanity or candour, and thereby give evidence of great depravity, have a corresponding degree of *demerit*.

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The person who without having entertained any malice, nevertheless deliberately kills that he may rob, is justly reckoned guilty of murder; and he who knowingly performs an action pernicious to his neighbour, though only from a motive of interest or conveniency to himself otherwise allowable, is nevertheless in such instances, justly reckoned guilty of a heinous crime.

As persons thus deliberately offending are not likely, from mere recollection, to repent of the actions, which, under a recollected perception of their pernicious nature, they already performed; the peace of society, and the safety of innocence, require, that such persons should be restrained by the fear of punishment; and, if not reclaimable, that they should be removed by exile or death from the society they disturb or molest.

What in the scale of reprobation is qualified with the more venial name of *offence*, may, in respect to the external effect, be equally hurtful with what is denominated a *crime*.

Under this title of an *offence*, the peace of society may be disturbed, or a citizen may suffer in his person or effects; but when this proceeds not from malice, nor from an ordinary habit of indifference to the rights of others, but from a sudden and occasional emotion or passion, which may hurry a mind, otherwise disposed to innocence and good will, into an action pernicious or hurtful to those whom it may concern, the demerit is proportionally alleviated.

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Such offenders, on the returns of reflection, are capable of sincere repentance, and they may be reclaimed by such measures of punishment or animadversion as awaken their remorse, and put them on their guard against like slips of temper or effects of provocation.

Under the latter denomination of a fault, we may conceive, and often have occasion to admit, a lower degree of demerit than is implied in either of the former titles. Of this a person may be guilty, if, from ignorance or inadvertency, he shall be the cause of harm to his fellow creatures, although he have not either the deliberate intention of the *criminal*, nor the unruly passion of the *offender*.

*Faults* of inadvertency, or of ignorance may have unequal degrees of demerit. Where the case by its general importance, or by any peculiar circumstances of personal concern calls up the attention in a special degree, *inadvertency* is proportionally inexcusable, and may justly incur high measures of punishment.

*Ignorance* of what, by the general condition of our nature, by our profession, or by any peculiar opportunities of instruction, we ought specially to know, becomes faulty in proportion as these circumstances accumulate.

On this account it is a just maxim in the cognizance of *crimes*, that ignorance of the *fact* may be admitted as a plea of innocence, but that ignorance of the *law* never can be admitted to justify what is illegal. Thus a person, who, in shooting his arrow to a distance, shall wound his fellow creature, may plead his

his ignorance of the *fact*, or his ignorance that there was any person in the way of being so wounded ; but he cannot plead ignorance of the law, or that he did not know it was a crime to injure or wound his fellow creature.

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The law of nature, suggested by the regard which a man naturally has for mankind, cannot be supposed unknown, without an implication of the greatest depravity ; and if any one, accused of an action pernicious to his neighbour, should plead that he did not know it was wrong to do harm, he would, in that very plea, establish a heavier charge of depravity against himself, than any occasional or transient action could imply.

The sum of this argument is, that although external actions considered apart from will, intention, or disposition of mind, like mechanical causes of any other sort, may be productive of benefit or harm ; yet they do not appear to be vested with any moral quality, until the movement performed is traced to its connection with the disposition of mind from which it proceeds. This is admitted not only with respect to involuntary or convulsive motions, in which the arm of one man, in a fit, may be so thrown about as to wound another : It is admitted, also, with respect to voluntary actions, in which a person may casually, or without any blameable inadvertency be the physical cause of harm to another.

The distinction of moral good and evil cannot be ascertained in the description of mere external action ; nor can the merit or demerit of a man be known until he has acted. Inasmuch, that although in abstraction we may take asunder, and state apart, qualities of the mind and movements of the body, yet these in  
reality

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reality are combined together in the conception which men mutually form of their moral distinctions.

Wisdom and goodness are the constituents of merit; proper and beneficent actions are the evidence of wisdom and goodness. A series of beneficent actions implies benevolence; a series of pernicious actions implies malice; proper conduct implies wisdom; improper conduct implies folly: And, wherever wisdom and goodness exist, proper and beneficent conduct will follow, as the tree produces its fruit, or the cause in any other instance is followed by its effect.

External action, considered as a feature of the human character, or as an emanation of good or ill disposition, is a proper subject of moral approbation or censure, or comes properly within the direction of moral government or law.

The same law, that recommends the love of mankind as an excellence and a blessing to the mind of man, must likewise recommend beneficent actions under the predicament of moral duty; and the law which reprobates malice must reprobate pernicious actions also.

When we have thus traced the approbation of external actions to that wisdom and goodness, which is the source of such actions, we may suppose a question to be put on the subject of moral action, the same as that we supposed on the subject of natural beauty; If external actions be approved on account of the wisdom and goodness from which they proceed, on what account are wisdom and goodness themselves approved? And we may repeat, That wisdom and goodness are approved on their own account: Or, if this answer should not be satisfactory, we may change the terms, and say, That wisdom and goodness are approved

approved as constituents of perfection and happiness, and in this terminate our series of reasons, which, however continued through any number of steps, must lead at last to something that is estimable on its own account.

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The husbandman values a manure because it promotes the fertility of his land. He values fertility on account of its produce; the produce on account of its application to the purposes of subsistence and accommodation; and these on account of their effect in preserving life; and if he values life, on account of the happiness of which it is susceptible, still in the end there must be some consideration that is valued on its own account. No series in human affairs is infinite, and every choice which is made of one thing on account of another, implies, that there is somewhere, and however remote from the present ground of our choice, an object that is actually valuable upon its own account.

In the scale of created beings the intelligent is supreme, and approaches nearest to the eternal source of existence and excellence. If intelligent beings themselves may be unequal, and rise above one another in their unequal approaches to Supreme wisdom and goodness, such gradations acknowledged amount to an acknowledgement also, that in perfect intelligence there is an excellence or a good which is in itself the Supreme object of veneration and love.

## SECTION VIII.

*Of the Obligation and Sanctions of Moral Law.*

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MORAL law in the most general form, as has been already stated, is an expression of what is good, and therefore an object of choice.

To every rational choice there is an *obligation* and a *sanction*. These terms are not synonymous: and yet their distinction is more easily understood than expressed in any other form of words.

Obligation, in the original sense of the term, seems to imply some tie or bond, * which is incurred by the person obliged; while *sanction* implies the consideration by which he is induced to

* *Obligatio* est juris vinculum, quo, necessitate astringimus alicujus rei solvendæ secundum nostræ civitatis jura.

Inst. Just. lib. III. titulo decimo quarto.

to fulfil that bond. So that, in making a free choice, the reality of a good forms the obligation, and the consequence to be apprehended forms the sanction. Or, if a person should say, that he is not obliged to chuse what is good, and may, if it so please him, prefer misery to happiness, he may be told, that this is not the language of intelligence; nor can it be seriously held by any one who takes the words in their ordinary meaning.

To the question, therefore, that may arise in this place, Why any one should chuse to be virtuous rather than vicious? It may be answered; Because virtue is happiness, vice is misery; and in this contrast is implied at once all the good of which human nature is susceptible, and all the evil to which it is exposed. In what, therefore, we may be asked, does integrity differ from what is so loudly complained of under the notion of selfishness? In nothing but in that which is of all others the most essential distinction,—the wisdom of a choice which is made by the one, and the folly of the other. Those we call selfish endeavour to suppress the best and happiest sentiments of their nature, and become disaffected or indifferent to their fellow-creatures; while the virtuous have a common cause with mankind; and, being secure in the enjoyments of an affectionate temper, partake in the good which providence has dispensed to the whole; and are ever happy in promoting the same end to the utmost of their power.

Some writers on the subject of morality, and lawyers for the most part, consider obligation as resulting from the command of a superior, and the sanction, or cause of compliance, as resulting from the power of that superior to enforce his commands. They are used to consider laws that may be enforced; and in their

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notion of moral obligation, would recur to an authority that is fit to enforce the observance of moral duties.

But power employed to determine the will of a free agent must operate in presenting motives of choice ; in presenting happiness as the reward of fidelity, and misery as the punishment of neglect : And whether this be done by so ordering the nature of things, that virtue shall be its own reward, and vice its own punishment ; or whether it be done by a subsequent act of will and discretion, in rewarding the good and punishing the wicked, in a way not previously connected with the part they have acted, the reality of the obligation, and the sanction is the same : For if, in the nature of things, moral good be constituent of happiness, and moral evil of misery, what can Almighty power do more to determine the choice of the one and the rejection of the other ? If we conceive any sanction of moral law as different from this, it must however terminate in the same effect. For what are the honours and rewards which men bestow upon virtue, or the chains and imprisonment which they award to the wicked ? What is the heaven which religion decrees to the one, or the hell which is provided for the others ? but happiness and misery in other terms, or terms, if you will, in which every one is left to conceive what will operate most on his own apprehensions and feelings.

In the case of man, surely, it requires no great effort of understanding to perceive that wisdom, benevolence, temperance, and fortitude are happy qualities ; that malice, folly, and cowardice are wretched.

And if it should be thought necessary to consider moral law as the command of a superior, this may be done without departing from

from that original doctrine of nature we have stated,—that *moral good is the specific excellence and felicity of human nature, and moral depravity its specific defect and wretchedness.*

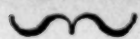
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The Sovereign of the universe, by having made things as they are, has given his command, and promulgated his law in behalf of morality; and in every instance of conformity to his law, and in every infraction of it, continues to apply the sanction of happiness and misery. Wisdom, benevolence, fortitude, and temperance, he has said shall be the constituents of happiness; folly, malice, cowardice, and debauchery shall be the constituents of debasement and misery. We may therefore chuse to treat of moral obligation as the tie of reason, to prefer what is highly valuable in itself and eligible upon its own account; or we may treat of this obligation as the tie of reason, binding the creature to obey his Creator, in making a choice, in support of which the Creator has exerted, and will continue to exert, his sovereign power.

In chusing what is morally good, it is happy to know that we obey our Creator; and in obeying our Creator, it is happy to know, that what he commands is the specific good, and felicity of our nature.

To separate these considerations were doubtless of ill effect; and the sanctions of morality would be less powerful upon either principle apart, than they are upon the foundations of both united. Merely to obey, without a sense of goodness and rectitude in the command, would be greatly short of that duty which we owe to our beneficent Maker; and the love of virtue is no doubt greatly encouraged by the consideration, that Almighty power, in the established order of things, is exerted in its favour.

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In the genuine alliance of religion and morality, the wisdom and goodness, which we perceive to be the constituents of happiness, are likewise enjoined by the sovereign command of God. They are presented to our thoughts, as attributes of the Supreme Being himself, and as forming in him the objects of reverence and of love; and our own capacity of attaining, in any degree, to a participation of these qualities is considered as the highest perfection or prerogative of our nature.

To the ingenuous mind this constitutes the obligation, and the sanction, whether of religion itself, or of moral duty. If we should be disposed farther to enquire; by what sanction the profligate may be reclaimed from their profligacy, or by what means those who are disposed to the commission of crimes may be actually restrained from disturbing the peace of society? the answer may be difficult.

Mankind from age to age have laboured upon this subject; have urged the reasons of morality; have denounced the vengeance of God against iniquity; have held up the sword of justice, and threatened to exterminate the wicked; and all this, though no doubt with great effect, still without being able to reclaim the depraved from their vices, or to prevent the commission of crimes.

Happiness is misunderstood; religion is slighted, the movements of justice are slow, and defer the infliction of punishment, till after the wrong is committed.

Men have the concerns of animal life, as well as those of intelligent

telligent being, to care for; and, however evident the co-incidence of happiness and of duty, neither the degree of this evidence, nor that of any other fact, is at all times sufficient to guard the imagination against the admission of false apprehensions.

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In the conceptions of ordinary men, there are advantages, whether of wealth or pleasure, which it is their interest or passion to obtain: But there are means seemingly effectual to obtain these advantages, from which they conceive it their duty to refrain. They are tempted by the end; they are restrained by the law of morality, which forbids the means. While they continue to think in this manner, the obligation and the sanction of the moral law may, in their apprehension, be either the consciousness of what is right and wrong; the general esteem or contempt of mankind; the awe in which they stand of the supreme Being; or the arm of the magistrate, which is lifted up to protect the innocent against the wrongs which they are disposed to commit: So that, in this view of the matter, and as conceived by ordinary men, the sanctions of morality may be enumerated under the titles of *conscience*, *public repute*, *compulsory law*, and *religion*.

With respect to the first, it may be observed, that persons who distinguish between their interest, on the one hand, and their duty on the other, frequently conceive these objects to be in opposition, and fit to distract their choice. They frequently feel the consideration of their interest more cogent than that of their duty, but still do not confound these considerations together, nor lose the sense of moral obligation while they trespass on the maxims of moral law. In departing from their duty, they are still conscious of its reality, and affected with remorse and shame: So that the sanction of conscience is entire, even when it is neglected.

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It were irrational in a man to hurt himself; and the neglect of this rule is marked with a consciousness of folly. But it has pleased the Almighty, that we should hold every person under a different form of obligation required to consult the welfare, or to abstain from the offer of harm to his neighbour. This form of obligation perceived carries with it the sanction of innocence, amounting to a high measure of satisfaction in the consciousness of integrity, and a high measure of remorse, of dissatisfaction, and suffering, in the consciousness of any criminal trespass on the rights of a fellow creature.

With this, in some degree, is connected the sanction of public repute also, in which every person apprehends that he is an object of esteem or reprobation to other men.

As man is formed for society, he is justly made to enjoy or to suffer under the approbation or disapprobation of other men, as well as under his own. The complacency, therefore, of his fellow creatures, who esteem and who confide in him, or the aversion with which they reprobate or shun him, are powerful accessories to conscience in urging its dictates.

Many articles of decency, or even propriety of manners, are derived from custom, or the arbitrary conceptions of men, relating to such matters. For the observance of these articles, public repute is the peculiar sanction. The observance of some determinate forms is of great consequence to public order; and individuals, even in matters of indifference, must not think themselves at liberty to slight the authority of their age and country, in the forms of behaviour, which they are required to observe.

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States or regular communities also have their rights, which they are prepared to maintain by force. They have their laws to which the magistrate is empowered to compel obedience. For these purposes the community is armed, fortresses are built, and military forms established. Tribunals are erected for the trial of crimes; officers are entrusted with public force; *chains, fetters, and public prisons*, and the other apparatus of coercion, are provided for the guilty. In these institutions, there is a sanction of force to support the obligation to innocence, to preserve the public peace, and to secure the harmless in the possession of his rights. Such may be termed the sanction of compulsory law, which, though not in every instance proper to obtain acts of beneficence, yet in every instance is applicable to restrain the commission of crimes.

In aid of the magistracy, also, in every well ordered community, institutions of religion are wisely adopted, and the authority of religion is impressed on the minds of men, by solemn rites significant of the presence of God and the homage which is due to him.

We may avoid for the present entering into any question relating to the abuse of such institutions, whether to the purposes of public tyranny or private gain. We consider them only with a view to their proper use in confirming the obligations to innocence and duty.

Man, we have had occasion to observe, is formed for religion as well as society. He is capable of perceiving universal intelligence in the fabric of the universe. He perceives in the predi-
lection

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lection for justice and innocence, in the horrors at guilt which are impressed on his own mind, the will of that sovereign authority which reigns in the system of nature. To him the consciousness of integrity and goodness is peace and amity with God: The consciousness of depravity and wickedness is rebellion and enmity; the one rendering existence itself a blessing, in the confidence of present and future protection; the other rendering life itself a curse, under the horrors of present remorse, and the fear or apprehension of future and impending evils.

Such is religion in the form of mere reflexion as it operates in the mind; in the form of a public establishment it operates in the manner of compulsory law, with the denunciations of future punishment and the hopes of future reward. But the government of God, more comprehensive than the government of man, extends to the mind as well as to external actions, and carries the application of compulsory law to restrain not only the overt acts of iniquity, but even the thoughts, wishes or purposes which may lead to such external effects; requiring such a guard upon the mind itself as may suppress the first approaches to evil, and induce habits of innocence and of virtue.

Just religion, besides its effects as a restraining principle is in itself a source of elevation and of goodness in the mind of man. In what is the love of God different from the love of goodness itself? Or in what is the desire to act a part agreeable to the Supreme Being different from that elevation of mind with which the worthy aspire to perfection?

In this enumeration of sanctions, or motives to determine the virtuous choice, included in the general and comprehensive distinction

inction of good and evil. We have mentioned those of *conscience*, of *public repute*, of *religion*, and *compulsory law*.

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Such then we may conceive to be the practical obligations of men, and such to be the functions to which they either do, or ought to, recur in settling the tenor of their affections and of their conduct *.

In the farther arrangement of our subject, we may avail ourselves of a division that naturally arises from the consideration of these different functions, and may consider the requisitions of compulsory law; or rights to be supported by force, apart from the maxims of beneficence and duty, which are urged by the other considerations now mentioned. The first will extend to every case in which force or compulsion may be properly employed. The second, to those cases in which the obligation of moral duty, however strong, cannot properly be enforced, and must be left to the free will of the agent.

The first may be termed *jurisprudence*; the second *casuistry*, or that part of moral science which relates to action and the characteristics of a happy life. And to these may be subjoined, under the title of *politics*, the discussion of material questions, relating not merely to men as members of society, but to the society itself, in respect to its institutions and forms. And under one or other of these titles may be comprised all that yet remains to be done in observance of the method which has been proposed for this work.

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CHAP.

* *Juris precepta sunt hæc: Honeste vivere, alterum non lædere, suum cuique tribuere.*

Inst. Just. lib. i. par. 3.

C H A P. III.

OF JURISPRUDENCE OR COMPULSORY LAW.

PART FIRST.

S E C T I O N I.

Of the Principle of Compulsory Law.

IT is a well known fact, that mankind sometimes employ force to obtain the observance of moral laws, and that the right to compel the performance of a duty, though not universal in every case, is, at least, in some instances fully acknowledged.

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We are now to investigate and to state the principle from which this right in any case can be derived.

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It may be observed, that in all the instances in which the right of one man to compel another is acknowledged, compulsion, either in its immediate operation, or in its final effect, is an act of defence.

The sovereign employs force to defend his country against foreign enemies, or to make reprisals for a wrong that is done to his subjects. The magistrate employs force to repress crimes; the citizen to defend his dwelling or his person. And even in exacting the payment of a debt; or in requiring the performance of a contract, there is no more than an exaction of what is justly due; or, as we shall have occasion to evince, no more than an act of defence on the part of the exactor, maintaining a right of which he is already in possession.

The great principle of morality extends to beneficence, as well as innocence; but from this account of the circumstances in which compulsion is applicable, the principle of compulsory law is limited to the repulsion of wrongs, and to that part in the object of the moral precept above cited, which forbids one person to be the author of harm to another *.

In search of this or any other principle in nature, by whatever steps we proceed, we must arrive at last at something that is self-evident. And such we may say is the maxim, *That every innocent person may defend himself*; to which we may join what is equally evident, that *every one having power, may employ it in defence of any other innocent person*.

To the purpose of defence a sufficient measure of *force* is required

* *Alterum non lædere.*

quired, and in many instances is the only means that can be successfully employed. A person disposed to commit an injury may not be persuaded to desist from his purpose; nor can he be eluded perhaps by any artifice or stratagem; it remains therefore that a *force* superior to his may be the only means sufficient to restrain him.

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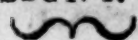
In every case of defence, force is employed to secure the innocent, rather than to obtain, from those who would injure him, the discharge of a duty. And the specific end of compulsory law being to repel a wrong, the means are adequate and just.

But if any one, instead of disputing the legality of *force* in a case of defence, should contend, that it is not peculiar merely to such cases, but may be employed, not only in defending a right, but in obtaining any other end beneficial to mankind; that as religion and virtue are confessedly of the highest value, every effectual means, and force no less than any other, may be employed to obtain them, whether by propagating faith towards God or charity towards men.

These no doubt are blessings, in obtaining of which no effectual means are to be spared; but if we wish to promote the cause of religion and virtue, means are to be employed which inform the mind, conciliate the affections, and gain the will. To these purposes *force* is inadequate. Its effects, on the contrary, are to render the understanding less docile, and to alienate the mind. And it must be rejected as an instrument of instruction or moral improvement; because it would be irrational to employ means which have a tendency adverse to the purpose for which they are employed.

Nay, but force is competent to obtain, even from those against whom

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whom it is employed, the external fruits of faith and charity ! To this it may be answered, That if these fruits be required as a moral good in those who are made to yield them, the reality of any such good may be questioned ; or rather it is evident, that a forced performance of supposed good works does not constitute any good in him who is compelled to perform them. Virtue cannot be forced. It is voluntary, or it does not exist. Faith is sincere ; or its profession is a mere hypocrisy.

If the fruit of good works be required in one man for the benefit of another ; it is evident that force cannot be justly employed for this purpose. Benefits extorted by *force* are robberies, not acts of beneficence.

We may conclude, therefore, that the use of force, which is admissible in the case of defence, whether immediate or remote, is also limited to such cases ; and that although men are bound, under every other sanction of duty, to avoid being authors of harm, yet, that they are, in this duty of abstaining from harm, peculiarly repressible by force also : And from this we may safely assume, that the *right of defence is the specific principle of compulsory law.*

In treating of this subject, accordingly, we are not so much to consider the obligation under which every person lies to be innocent, as to consider the right which every person has to defend himself, and his fellow creature, by every effectual means in his power.

This right amounts to a permission of whatever may be necessary to safety, but does not contain any positive injunction to do all that may be wanted for this purpose. A person attacked

in his person may kill the aggressor ; but is not required to do so much.

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In the application of our principle, therefore, we endeavour to point out how far the right of defence extends, but do not, in any case whatever, pretend to lay the person who defends himself or his neighbour, under any tie of necessity to go to the utmost extent. The citizen, it is admitted, may kill the house-breaker who alarms his dwelling in the night, but is not required to proceed so far : Nay, on the supposition that he may defend himself and his dwelling, without having recourse to this extremity, he is by the law of nature actually restrained from it.

In conceiving a just and complete act of defence, we must suppose some thing that is to be defended or maintained ; and specify the means that may be lawfully employed for this purpose.

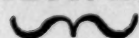
That which a person may lawfully defend or maintain is termed his *right*. The circumstances under which a right is exposed or invaded may point out the means which are adequate and necessary to its preservation ; and the subject of jurisprudence or compulsory law, so conceived, admits of being divided into two principal parts, of which one relates to the *rights* of men, the other to the *means of defence*.

SECTION

SECTION II.

Of the Term Right in its most General Acceptation.

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THIS term is sometimes an adjective, employed to distinguish the quality of an action that is proper or morally good; and, in this sense, to ascertain what is *right*, is to apply the principle of moral law to the particular subject in question.

In our present inquiry, the term *right* has a different meaning: It is a substantive, the name of a thing, or relation of a person to a thing, and not the mere quality of an action. It may be reckoned among the subjects which are not susceptible of a formal definition. But, we may recur to the cases in which it is supposed to exist, and leave the mind to collect its meaning from a consideration of the point, to which it refers in all the cases enumerated.

Thus, a person has a *right* to the use of his faculties and powers; he has a *right* to enjoy the light of the sun, and the air of

of the atmosphere ; he has a *right* to the use of his property, and the fruits of his labour. These, are self-evident propositions, and the meaning of the term *right*, which occurs in all of them, may be collected from its uniform signification in each. Agreeably to this rule, *right* is the relation of a person to a thing in which no alteration ought to be made, without his own consent.

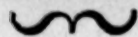
In this circumlocution, the names of *person* and *thing* imply, that a *right* is the appurtenance of a person, or of a being vested with choice and volition, and has reference to the will of such person respecting the object of his choice. This object may subsist in the person himself, in his lot or possession, or in any constituent of his being or state whatever.

It is a part in the social nature of man, that *rights* are to different men mutually objects of consideration and acknowledgement.

The concern of a person in his own right, is implied in the principle of self-preservation ; his concern in the rights of others is implied in the principle of society, or in the sympathy of man with his fellow creatures.

Wrong is the violation of *right* ; and, the same concern which interests the mind in the preservation of the one, is a cause of resentment on occasion of the other.

There may be a *claim* or *pretension* without a *right* ; but a right, whatever be the subject to which it refers, is exclusive, and sufficient to set aside every supposable claim or pretension to the same subject.

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Although numbers at once may lay claim to a right, there can be no more than one to whom it is due ; and the object of discussion, under opposite claims, is to determine with whom the right shall be found to exist : So that, although the right of any two or more persons may be questioned, or their pretensions remain undecided, yet every question of right implies, that a just title, wherever it be found, is exclusive of every other claim or pretension whatever.

Although, therefore, in the loose application of words, or in common language, we sometimes use the terms right, claim, or pretension promiscuously ; yet, in propriety of expression, it is well known, that there may be a pretension or a claim where there is no right, and that a right may remain unclaimed and undecided.

From inattention to the propriety of language, or from a wish to make way for a favourite tenet, by the help of some ambiguity, it has been said, that in the state of nature, or prior to convention, all men had equal rights to all things ; the meaning must be, that, prior to convention, no right was ascertained ; and that as no person had any right, so all men were equal in this respect. How far the position is true even in this sense we shall have occasion to consider.

In the mean time, we assume, that the right of one person precludes a supposable right in any other person to the same subject : And so far it is proper that the term be understood, before we proceed to consider the different denominations under which rights may be known. As they differ in respect to the subjects

jects in which they are constituted, so they differ also in respect to the origin or source from which they are derived.

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SECT. II.

Among the sources of right we shall find, that the law of defence itself may be numbered; and, upon this account, before we proceed to consider the distinction of rights, especially in respect to their origin, it may be proper to state the law of defence in its most general terms, as a source to which among others we may have occasion to recur in treating this part of our subject.

SECTION III.

Of the Law of Defence in General.

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ACCORDING to the law of defence a *right* may be maintained by any means which are *effectual* and *necessary* for this purpose.

It were irrational to employ means ineffectual, and it might be cruel in some instances to employ severities that might have been spared.

If means are supposed to be necessary, it is implied that the end cannot be obtained without them; and to suppose that a defence is allowed, and yet that the necessary means are prohibited would be to suppose, that the law of nature is inconsistent with itself; proposes the end, and yet forbids the pursuit.

It is true, that in some cases the necessary means may be so severe, and even so destructive to the party against whom they are

are employed, that humanity revolts against the use of them ; and persons of a certain mild disposition may submit to harm, rather than employ, for defence, measures of any cruel effect to which the aggressor may have exposed himself.

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SECT. III.

In the contest of parties even the aggressor does not immediately forfeit every right ; and there are accordingly limits to the very means of defence that may be employed against him ; but the forbearance of any necessary means of defence however severe, is a voluntary effort of goodness in the person wronged, not such a concession as the aggressor may claim as a right due to himself.

As the law of defence, therefore, permits the use of any means which are necessary, so it allows to the person against whom they are employed, an exception in the want of necessity, when means destructive or harmful are unnecessarily employed against him.

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The object of law being to maintain a right, every excess of harm beyond what is necessary for this purpose is itself an injury, and gives to the party, suffering under it, a right of defence. So much is implied in the terms *effectual* and *necessary*, by which the means of defence are characterized.

Under the general notion of safety are included not only the *repulsion* of a wrong that is offered, but likewise the *prevention* of a wrong that is apprehended, and the *reparation* of a damage that has been done ; so that the law of defence consists of three clauses.

1st, That a wrong apprehended may be *prevented*.

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2d,

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2d, That a wrong offered may be *repelled*.

3d, That *reparation* may be exacted of a damage received.

According to the first clause, every party may provide himself with the necessary precautions against the harm to which he may think himself exposed.

According to the second, he may repel an assault, or turn away from himself an evil that is intended or dreaded.

According to the third, he may compel the injurious to make reparation: And in this last clause particularly are found certain claims of right which we are not qualified to discuss, except so far as the clause itself is stated and understood.

It is to be remembered also, that in every question of right men are permitted to act as *auxiliaries* as well as *principals*, and that where a third party interposes, the law of nature, in all its limitations and clauses, and in every case of defence, applies equally to the one as to the other.

SECTION IV.

Of the general Titles under which the Rights of Men may be classed.

IN a subject familiar and obvious to every person there is more danger that we overlook what is evident, than what may require investigation and research.

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After having assumed as a self-evident maxim, that a person may defend himself, it appears unnecessary to subjoin, or it is rather a repetition of the same thing in other words, to say, that he may defend his person, the limbs and organs of his body, and exercise the faculties of his mind.—Yet these, in pursuing our subject methodically, we shall have occasion to cite; and much depends on their being kept in view, when we would discuss certain questions relating to the origin as well as progress of justice in the affairs of men.

These are original appurtenances of human nature or inseparable from it, and the maxims of justice relating to these subjects

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jects must have been coeval with the subjects, and inseparable from human nature also.

There cannot therefore have been a time in which man had yet to acquire his right of defence in respect to the particulars mentioned, nor a time in which it was not just to respect the person of a man, as much or more than to respect his possession or his estate.

In this view of the matter, justice cannot be said to be an artificial virtue, any more than the person of a man to which it refers is artificial. And no time can be assigned for the commencement of a person's right to defend himself different from the time at which he began to exist. In every state of his existence, by whatever name we call it, whether the state of nature, the state of society or convention, as every one had a right to defend himself, so in every one it would have been wrong to invade that right.

It is absurd therefore to allege, that in any state of mankind all men had equal rights to all things, or that the right of any one to defend his own person took its rise from convention. It is indeed probable, that such a doctrine never would have been advanced, nor would justice in the most general and comprehensive terms have been supposed to be an artificial or adventitious virtue; if reasoners had not overlooked the self-evident rights of the person, and carried their view at once to matters of property in which the right is confessedly artificial or adventitious.

With respect to subjects of possession or property, it is admitted, that until they were possessed by some one, they were open to

to any one, and became matter of just possession to the first occupier.

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To these only Mr Hobbes seems to have adverted, when he says, that in the state of nature "all men had equal rights to all things;" and the meaning must be, that no one had any right to any thing until he had occupied it: That occupancy was equally open to all men; but he ought to have subjoined, that after a subject was fairly possessed, no one had a right to disturb the first occupier in his use of the subject.

The undeniable evidence of obvious and uncontrovertible truths makes it absurd or impertinent to state them for information, or in the form of discovery; but to assume principles, or to adopt conclusions in direct contradiction to such obvious truths may indeed have the merit of novelty, or seem to proceed from profound observation, but is certainly in a much higher degree absurd than the repetition of any truth, however obvious and previously known.

To guard against the first of these errors we may be obliged to incur the second, and attempt the enumeration of rights even under titles to which the attention of all mankind might be taken for granted, without any mention of them.

On this account, then, we begin with observing, that the rights of men may be considered, either in respect to their subject, or in respect to their origin.

Considered in respect to their subject, they are by lawyers sometimes termed *personal* and *real* *.

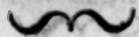
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* See Blackstone's Commentaries on the Laws of England.

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Considered in respect to their origin, they may be termed *natural* and *artificial*; or, in terms perhaps less apt to be mistaken, *original* and *adventitious*.

Personal rights subsist in the person, and relate to the constituents of his nature and frame. Such are the limbs and organs of the body, and the faculties of the mind, with the uses of both. Such is life itself, freedom of innocent action, and enjoyment of what, without injury to another, is fairly occupied.

Persons are distinguished in the terms of law under the names of persons *natural* and persons *artificial*. The individual is a person natural; corporations, states, or any plurality of men acting collectively, or under any common direction, are persons artificial.

In persons of the latter description, political forms, and the constituent members of the body politic, analogous to the frame and organic parts of the natural body, may be considered as matter of personal right to the community.

Rights *real* subsist in things separate from the person, provided they may become subjects of exclusive or incompatible use. Such is the right which a person obtains to the clothes with which he is covered, or to the ground or other subject which he has fairly possessed.

Real rights, or the right to things, may be referred to three principal heads: *Possession*,—*Property*,—and *Command*.

The right of *possession* subsists only so long as the thing is in actual use, and may therefore be transient or subject to intermission.

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The right of *property* is exclusive, and continues even during the intermissions of actual use; it continues therefore until it has ceased with consent of the proprietor.

The right to *command* respects the services or the obedience supposed due from one person to another.

Rights considered in respect to their source, being *original* or *adventitious*, it is of moment with respect to the first to specify their subject; and with respect to the second, to ascertain the titles on which they are founded.

SECTION V.

Of Rights Original.

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THE subjects of original right, being coeval with man, must be limited to the constituents of his nature, or the common appurtenances of his kind.

Original rights are therefore personal, and express what every one from his birth is entitled to defend in himself, and what no one has a right to invade in another.

These rights may be modified by alienation or consent ; but, prior to convention of any sort, remain entire, and in one person exactly correspond to those of another.

The existence of every such right is self-evident : It may be overlooked from inadvertency or design, but being once stated cannot be controverted.

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Mr Hobbes in laying the foundation of his system appears to have overlooked the original rights of the person : But if they had been stated to him, or if he had been asked, whether every person in his supposed state of nature had not a right to preserve himself? or whether any person had a right to destroy his innocent neighbour? it is difficult to conceive, that a person, who acknowledges the obligation of one man to keep faith with another, should not acknowledge also his obligation to abstain from any harm to his person.

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SECTION VI.

Of Rights Adventitious.

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IN the term *adventitious* is implied a preceding period of existence, however short, in which the thing adventitious was yet future; a time in which it began to be, and a subsequent period of its continuance.

In the first period of man's existence, he had his original rights; in a second period those rights may be modified by his own consent, or new rights accrue to him from some act of his own, or the voluntary deed of some other person concerned.

Original rights are recognised upon being merely stated; adventitious rights require to be supported by evidence, in which the manner of their acquisition is to be cited and considered.

When a person lays claim to the exclusive use of any subject, or requires the service and obedience of other men, he may be asked,

asked, whence his right is derived? or by what evidence he is enabled to support his claim? Such right, however fairly constituted, is still matter of discussion, and the object of science, in every such discussion, is to ascertain by what means a subject, not originally matter of right to any one, may become so to some one; or, in other words, if a claim should be laid to any such right, it is material to know by what evidence it may be evinced or supported.

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As rights personal, agreeably to the definition which hath been given of them, for the most part are original, or coeval with the existence of the person, so the rights real, such as *possession*, *property*, or *command*, are, for the most part adventitious, and may begin to exist at any period subsequent to the existence of the person and the thing to which they relate; and, as both the person and the thing might have continued to exist, without any apprehended relation of one to the other, we are in the following sections to enquire whence such relation may have arisen; how they are constituted, and how they are to be verified in any particular instance.

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S E C T. VII.

Of the different Sources of Adventitious Rights.

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BEFORE we proceed to affirm whence an adventitious right may arise, it is proper to observe negatively, that it cannot arise from any act of injustice or wrong; nor be constituted where the thing is impossible or not real.

Injustice or wrong has reference to a person injured or wronged, who may defend himself; and to a person committing an injury, or doing a wrong, who, instead of reaping benefit from his wrong, exposes himself to suffer whatever may be necessary to repel his injurious attempt; or whatever may be necessary to obtain reparation of the harm he may have done.

This negative proposition were too obvious to need being formally stated, if it were not necessary to correct a common solecism in language, by which we are told of the *right of conquest*, arising from a successful application of mere force, without regard

gard to the justice or injustice of the cause in which that force was employed.

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Where conquest is matter of right, there must be supposed a previous title to the subject conquered; and, if such title be verified, the conquest amounts to no more than a just possession obtained by force.

To this negative proposition, that right cannot arise to an injurious person from the wrong he has committed; we may subjoin what is equally evident, that no title can arise to what is not possible or not real.

Where either the thing or the person has no existence, there cannot be any relation: Upon this ground, we shall have occasion to observe, that although parties stipulating what is impossible may, by such proceeding, give rise to some claim in the one against the other, yet that there cannot be any obligation to the performance of any such article, however directly stipulated.

In treating the history of adventitious rights, there are two questions which may be separately discussed. The first question relates to things which, prior to the origin of the right in question, had not become matter of right to any one*; and the object of science is to ascertain by what means a thing till then open to the first occupier, may have become a matter of exclusive right to some particular person. The second question relates to the transfer or conveyance from one person to another of a right previously supposed to exist in the person by whom the conveyance is made.

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* Res nullius.

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To the first of these questions we may answer in general, that things belonging to *no one* may become matter of right to *some one*, either by mere occupancy, or in consequence of labour employed to improve or accommodate the subject to use. To the second question, we may answer, in like general terms, that a right may be conveyed from one person to another by *convention* or *forfeiture*.

We are, therefore, in the following sections, to define the titles of *occupancy*, *labour*, *convention*, and *forfeiture*; and to apply the law of acquisition, founded in these several titles, to the specific rights originating in this law or determinable according to this rule.

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OCCUPANCY is the relation of a person to a thing, such that no other person can use the same thing without molestation or detriment to the occupier.

In this manner, a person may occupy the unsappropriated ground on which he reposes himself, the spring at which he drinks, or the cover to which he has betaken himself as a shelter from the storm. In any of these instances, an attempt to use the same thing may harm or molest the occupier. He may therefore defend himself against any such attempt; or in other words, he has an exclusive right to the subject in question, so long as he continues to occupy it, or retains his possession.

This right, however, does not extend to the prohibition of any act by which the occupier is not any way disturbed or aggrieved. The occupier cannot justly resist another using the same thing.

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Of Occupancy, and the Species of Right that may result from it.

OCCUPANCY is the relation of a person to a thing, such, that no other person can use the same thing without molestation or detriment to the occupier.

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In this manner a person may occupy the unappropriated ground on which he reposes himself, the spring at which he drinks, or the cover to which he has betaken himself as a shelter from the storm. In any of these instances, an attempt to use the same thing may harm or molest the occupier. He may therefore defend himself against any such attempt; or in other words, he has an exclusive right to the subject in question, so long as he continues to occupy it, or retains his possession.

This right, however, does not extend to the prohibition of any act by which the occupier is not any way disturbed or aggrieved: So that the occupier cannot justly resist another using the same

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thing with himself, if this may be done without any detriment to him. Every one may breathe the air of the atmosphere, enjoy the light and heat of the sun, pass on the highway, and navigate the high sea with mutual freedom from harm or molestation.

The right that results from occupancy is no more than that of possession, beginning and ceasing with the act of occupying the subject to the extent described: So that, as this right does not extend to the prohibition of any act by which the occupier is not aggrieved, it evidently does not preclude any one from resting on the same ground after the first occupier has removed from it; nor preclude a second person from drinking of the same spring, after the first has ceased drinking; or from having recourse to the same cover, after it has been abandoned by a former occupier.

As the effect of occupancy, therefore, ceases with the actual use, it does not amount to *property*, or to any right supposed to continue during the intermission of such actual use.

No right in one person to *command* the services of another can arise from any title of occupancy, supposed to take place without the consent of the person whose services are required. To occupy the service of another without his consent, implies the use of force to obtain such service. Force so employed amounts to an injury; and, instead of constituting a right, may be resisted on the most evident principles of the law of self-defence.

It is justly held to be a public interest, that fair possession in every instance should be as little precarious as possible; and upon this

this account mankind willingly enter into conventions, by which fair possession of a certain duration is admitted as property.

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The duration of such possession in the laws of different countries is termed prescription, and was unequal in the jurisprudence of different nations, and in respect to the occupancy of different subjects. By the antient law of the Romans, respecting some subjects, a fair possession of three years amounted to prescription. In our law and respecting the subject of land estate, forty years fair possession is required to the same effect.

It is a maxim in the law of nature self-evident and uncontroverted, that all subjects unoccupied and unappropriated are open to the first occupier. If, therefore, by the state of nature, it be meant to design a state in which nothing is yet occupied or appropriated; or if we hold the negation of any right to be an equality of right, as if we should say, that the dead are all equally alive, or that such as have nothing are all equally rich; the maxim of Mr Hobbes may be admitted, so far as it relates to matters of adventitious right: *"That in the state of nature all men had equal right to all things."*

There could be no rule, by which to settle any rights which did not exist; but, with respect to the existing rights of the person coeval with human nature, there certainly was an existing rule, *That no one was entitled to injure or molest his neighbour.* To this rule mankind have at all times resorted; and by this rule they have generally been governed, notwithstanding the occasional irruptions of force and violence. When they are at any time in a state of war, this proceeds not from the want of an amicable rule, by which to decide their differences, but from the influence of

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of passion or error, which inclines some one or more of the parties to infringe the rule.

Mr Hobbes seems to make the state of war to consist, not so much in actual hostility, as in the want of any rule by which differences could be amicably terminated, and in the necessary reference of parties to the decision of force alone: But it is evident that the state of war thus defined did never actually exist; and that, in the midst of hostilities seemingly the most implacable, nations refer to a standard of right, according to which they plead that the quarrel should be amicably terminated in their own favour.

Mankind, in every state, not only had original rights of the person, but could not continue to exist without proceeding to occupy and possess the means of subsistence and accommodation; and without being engaged in transactions which amounted to some species of convention or bargain: So that the supposition of a state, prior even to the origin of adventitious rights, must have been of so short a duration as to resemble an abstraction of the mind, in which co-existent circumstances are separately conceived; rather than a period of history, during which they actually existed apart.

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SECTION IX.

Of Labour, and the Species of Right that results from it.

Man kind, in every state, not only had original rights of the person, but could not continue to exist without proceeding to occupy and possess the means of subsistence and accommodation, and without being engaged in exertions which amounted to

LABOUR, considered as the origin of a right, is an effort, by which a person may, for his own use, fabricate, procure, or improve any unoccupied and unappropriated subject.

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It is evident that, by the law of nature, a person is not permitted to labour on a subject occupied, because his labour may be a detriment to the occupier; nor is he permitted to labour on a subject appropriated without the consent of the proprietor.

Under this title of labour is supposed an effort productive of some permanent effect, some fruit of invention, of skill, or of power any way applied; and the labourer having, by the law of nature, an original right to the use of his talents or powers, has, by evident consequence, a right to the effects produced by any of their applications.

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As the right of possession continues during the continuance of occupancy, so the right acquired by labour continues together with the subject produced, and belongs to the producer, until he himself shall consent to forego, or transfer it to another.

The right, therefore, which is thus acquired, comes up to the idea of property. It is a right, in the labourer, to the exclusive use of his powers, and of their lawful effects, even during the intermissions of that use.

The right acquired by labour does not determine with possession: This may be discontinued during any period, and may be resumed again: If the subject be moveable, and during any time mislaid, it may be recovered wherever it is found; if in the possession of another, that other may be lawfully forced to restore it.

It may be argued, however, that as the right of property thus originating in labour is limited to the actual effect which that labour has produced; and, as it is not in the power of man to produce any substance, he cannot by his labour acquire a property in any such subject whatever. Human labour may combine materials together, or give to a substance some new modification or form; and so far the right of the labourer extends: But, as the substance itself is not an effect of his labour, whenever he shall cease to use it, the substance shall be open to the first occupier.

If any difficulty be supposed to arise from such subtilties of argumentation, it may be removed by observing, that, although the

the right of a labourer may extend only to the form, modification, or improvement, he has made, not to the subject or substance which exists independent of his labour; yet, if no one can occupy that subject or substance, without encroaching upon his right to the modification or improvement, it is evident, that, in defending his right to the modification, he may exclude every person from occupying the substance of which the form or improvement is his property.

The savage who has wrought a piece of wood into the form of a bow, in maintaining his right to the form, necessarily excludes every other person from the use of the wood. The husbandman, who, in breaking up uncultivated land, has acquired a right to the fruits of his culture, must, in order to preserve his right, exclude every other person from occupying the earth or stone of the soil to which his culture has been applied, although he has not in reality produced those substances.

The plea of right resulting from labour is limited to the right of property alone. When applied to any other species of right, whether a right of possession, or a right to command, it is either not necessary, or not adequate. It is not necessary to constitute a right of possession; nor is it adequate to establish the claim of one person to a right in the services of another.

Possession is valid, because the occupier must not be disturbed, although he may not have bestowed any labour on the subject in possession. Labour, therefore, is not necessary to establish this species of right.

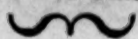
As to the second, or the right to command; if it be

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asked, whether this may not result from labour? We must answer in the negative; for, although one person may have taken pains to qualify another for the performance of some specific service; yet we must contend, that no right to his service can be founded on this plea. Labour employed by one on the person of another, without his own consent, may be an injury, and cannot be the foundation of a right. If applied with his consent, but without any stipulated conditions, the person to whom any new art is thus communicated, retains all his personal rights, and cannot justly be forced to work for another. "If you taught me an art, might such a person plead with his instructor, without having stipulated that I should employ it for you, it must be understood that I am free to employ it for myself." Gratitude may incline him to make some return to a benefactor; but the demand of a return may cancel that obligation; and, in answer to such a demand, the apprentice may plead: "If you taught me an art, that I might employ it for yourself, you cannot plead a benefit intended to me, nor lay claim to my gratitude; or, if you intended a benefit to me, you must leave me to enjoy its fruits."

A person may innocently labour upon the property of another, without knowing it to be already appropriated. He may give a new form; he may compose a mixture, of which the materials, either entirely, or in part, belong to some other person. In all these instances, the decision of the law of nature is clear and peremptory, that no one is bound to suffer a diminution of his right from the act of another, however free from guile or sinister intention.

As the party, acting however without guile or malice, cannot be charged with injustice, the law of nature awards, that the right

right of any other party concerned should be preserved or restored, with the least possible detriment to the fair and innocent dealer: And this is wisely provided for, in the conventional law of every well ordered community. But the rule that is adopted, in adjusting the relative claims of parties, on such occasions, may vary at the discretion of those on whom the practice of law depends. According to the law of the Romans, property thus brought in to dispute, was sometimes made to follow the original subject, and sometimes the specification or form bestowed upon it. When the materials, as in the case of bullion wrought into plate, could be restored to their pristine form, the property was awarded to him to whom the bullion belonged. Where the specification, or new form, was of a certain value compared to the subject on which a work was performed, as in the case of a picture, compared to the canvas on which it is painted, or in the case of a writing compared to the paper or vellum on which it is executed, there the material, from favour to the art which was practised upon it, was adjudged to be the property of the artist. Where subjects, belonging to two or more different persons, were unwarily mixt by either of them, and could not be again separated, it was awarded, that the mixture should be divided among the parties concerned, in proportion to the share of materials which each had in the composition or mixture; and the least inconvenient manner of terminating a dispute was, in this manner, intended, or provided for in these different instances.

Labour constitutes a right to property in the effect, which that labour has produced. Although there may have been labour, therefore, in any particular case, if there be no permanent effect, there is no subject of property. Mariners may have navigated the sea; they may have traversed new and unappropriated islands; but, if the land is no way changed by their labour; the earth, no more

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than the trackless ocean, can become a subject of property to the person by whom it is merely traversed.

It is nevertheless a custom of some standing, among the nations of Europe, to claim the dominion of newly discovered lands or islands, as founded in prior discovery, and confirmed alone by symbolical forms or acts of possession; such as the erecting of columns, with dates and inscriptions recording the claim of the sovereign, in whose behalf it is made.

So far as any number of nations have been in practice of claiming and acknowledging rights, founded in such forms as these, they must be understood to have entered into a fair convention respecting such subjects. A mere symbolical occupancy is valid against those who have repeatedly availed themselves of the same plea, and who are therefore come under an obligation to give way to it in their turn. It is a plea sufficient to exclude those who have agreed to be excluded by it, but not to exclude any stranger who is not a party to any convention in the case, whether express or tacit; much less a plea sufficient to deprive the native, however rude or barbarous, of the inheritance or possession to which he is born.

The right of the claimant, therefore, among the nations of Europe, upon the ground of discovery or symbolical possession, is matter of convention merely among such nations; and cannot be derived, either from the principle of occupancy, or the principle of labour, at least, until the subject is actually occupied, or, from the labour bestowed upon it, has received some actual change or improvement.

Such are the ways in which a subject, the right of *no one*, * may become the right of *some one*; either while he occupies it, or in consequence of the effect he has produced in it by his labour.

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It remains, that we consider by what means the right of one person may be transferred to another, as in convention or forfeiture.

• Res nullius.

SECTION

S E C T I O N X.

Of Contract, or the Principle of conventional Obligation.

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A CONVENTION, or contract, is the mutual consent of parties to constitute, transfer, or reduce a right.

Where two or more persons, therefore, are consenting to the same or to mutual articles of agreement, they come respectively or mutually under the obligation of contract.

This obligation, in the case of mutual consent, is universally acknowledged, or universally pleaded by those who exact the performance of a bargain: Infomuch, that even they who overlook every other foundation of right, acknowledge compact as sufficient to support all the claims of justice in civil or political society.

The obligation of compact, therefore, must either be self-evident, or must be derived from some very obvious and self-evident principle.

principle. Mr Hobbes denies the existence of any right prior to convention; but, it must be owned, that if in this, his opinion bears hard upon human nature, in denying the original rights of men, he is exceedingly prompt to sustain the effect of convention in creating every right which men have occasion to plead in society; and his proceeding is to the following purpose.

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The first requisite, according to him, in establishing any principle of law with which men are bound to comply, is: "That every man divest himself of the right he hath to all things by nature*;
"or, as he himself interprets, the supposed right of all men to all things, it being in effect, as he acknowledges, no *better than if no man had a right to any thing* †." The first requisite, in establishing a law of nature, is, that all men consent mutually, that for the future there shall be such a thing as *right*; "but," continues he, "as this consent were utterly vain and of none effect, if this also were not a law of the same nature, that every man is obliged to stand to and perform these covenants he maketh ‡;" it appears necessary to establish this obligation in general, before the consent of parties can be supposed to establish it in any particular instance.

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The breach or violation of covenants, according to this celebrated writer, is the *first species of injury*; but, to a person who denies the previous existence of injury, in the harm that may be done to the person of a man; it may be difficult to show how injury commences in this form, and no other. If he deny that, prior to convention,

* De Corpore Politico, Part 1st, Chap. iii. Sect. 1.

† Ibid. Sect. 2.

‡ Ibid. Chap. iii. Sect. 1.

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convention, there is any obligation to abstain from harm; if he admits that the violent may wound with his sword; that the insidious may ensnare with his cunning; why not that the faithless may, to procure an advantage to himself, betray the confidence he has been able to obtain.

To solve this problem, he has recourse to the following process of reasoning: *Not to perform what is contracted for, being what all men call an injury, he proves performance to be binding, because non-performance is an absurdity in action, as self-contradiction is an absurdity in argument*: "For, as he which is driven to contradict an assertion by him before maintained, is said to be reduced to an absurdity, so he that through passion doth or omitteth that which before he promised to do, or not to omit, is said to commit injustice, and there is in every breach of covenant a contradiction so called.—He that violateth a covenant, willethe the doing and not doing of the same thing at the same time, which is a plain contradiction *."

Here, it must be confessed, the argument is distinctly stated; the obligation of contract, and with it, according to this author, all the positive rights of men, are made to rest on the merit of consistency, in preference to inconsistency or self-contradiction. It were irrational to say and unsay the same thing; therefore, rational beings are bound in their actions to be consistent with their sayings; that is to say, *they are bound to observe their contracts*. To do otherwise, would be to unsay in their actions, or in neglect of performance what they had previously said, in terms of a bargain, or in expressions of consent.

Such

* Ibid. Sect. 2.

Such reasoning but ill accounts for the indignation with which a breach of faith is universally considered by mankind. He who breaks faith may incur the charge of inconsistency it is true ; but how different from the charge of *perfidy* or *treason*. The traitor next to the murderer is reckoned the most odious among criminals, and the argument now stated from Mr Hobbes is the less fit to support the obligation of contract, or to account for the sentiments with which breach of faith is reprobated, that it would equally apply to evince an obligation where none is admitted, and to fix a criminal imputation where the passions relent ; and where a person once inclined to the commission of a crime shrinks from guilt and returns to innocence.

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Thus, upon the principle of consistency, as stated by this author, a person having once expressed an intention respecting a matter in which he himself alone is concerned, would be bound to fulfil his intention, whatever reason or consideration may have occurred to the contrary. If a person, for instance, has once proposed in his own mind, or mentioned in his talk an intention to carry his goods to market, he is no longer at liberty to withhold them. If he has threatened to kill his neighbour, his benefactor, or his parent, he is not at liberty to retract or to change his mind. In any supposed case of this sort, however, mankind would consider the threat as a crime, and the failure of performance, not as a breach of faith, but as the relenting of a mind which had yet some remains of ingenuity, a sense of innocence, and some disposition to atone for the guilt of having ever entertained so atrocious a purpose.

In this account of moral obligation collected from the ordinary

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sense of mankind, we find a clear apprehension of right and wrong prior to convention. We find an acknowledgment, that convention itself may be wrong; the completion of it worse; and the breach of it right. As he who has engaged or bargained to commit a murder incurs a certain measure of guilt in the bargain he has made; this measure of guilt he would greatly augment by preserving consistency, or by proceeding to fulfil his bargain; and under such an unhappy engagement his duty manifestly is to become inconsistent, and to decline the performance.

Some writers who have employed their ingenuity to a better purpose, and who think more favourably of man's physical state than the last we have mentioned, seem willing, nevertheless, to rest the obligations of men in society more upon convention than is necessary; and to reason from this topic of contract, in cases to which the great injunction of natural law to abstain from harm is at least equally obvious and equally applicable.

Society itself is by such writers considered as the result of a bargain, and the relative duties of men in society are traced up to a supposed original compact, on the articles of which volumes have been written*. The intention of writers, in this form of their argument, is no doubt favourable to mankind, and the hypothesis of a conditional obligation is by them recurred to, merely in order that none of the parties in civil society may pretend a right to enjoy his peculiar advantage, without fulfilling also the condition to which he is peculiarly bound, or without contributing what is due from himself, in return for what he expects to receive from another. Thus, allegiance and protection being stated, as the reciprocal

* Vide Contrat Social of Rousseau.

ciprocal stipulations of magistrate and subject, the one is not to expect allegiance, without administering protection, nor the other to expect protection without the proper returns of allegiance and duty.

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Were we to enumerate all the obligations of men in society, we should find many, no doubt, which arise from convention express or tacit; but, it is far from being necessary or expedient to refer the whole to this title. The obligation to abstain from harm, and the right of every individual, to the utmost of his power, to defend himself and his fellow creatures, are prior to convention, and are indeed the foundation upon which conventional obligation itself is established.

Whoever has power may employ it in defending the innocent; and so far, the magistrate having the sword in his hand need not enquire whether the criminal that offends against the peace of his country, has agreed to abstain from crimes, or has agreed to submit to punishment. In repressing the crimes, and in giving examples to deter others from the commission of them, the magistrate does no more than what every other person, prior to convention, and to the extent of his power, is entitled to do.

But, when the magistrate assumes to himself alone the prerogative of employing force for the repression of crimes; when he tells the injured, that he must not attempt to do himself right, but must have recourse to the protection established by law; when he requires the subject to part with his substance, to defray the expence of a public service; when he assumes the right to positive command, in requiring the innocent to serve his country, as well as in requiring the injurious to abstain from harm; there, no doubt, he must be able to plead a special institution or convention, to which the people have agreed.

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Laws and institutions, in every community, contain articles of agreement entered into by the parties with whom they originated, and by their posterity who accede to them; but such agreements are all of them posterior to the existence of society, and not the foundations upon which society was originally erected. The essential obligations of men in society are founded in what nature has done for them, not in what they themselves have agreed to perform; and such obligations can receive no confirmation or sanction from the supposition of a contract which is merely fictitious, or which did not exist.

The humane author of the treatise on crimes and punishments*, founding even the right to punish crimes on a supposed original compact, and applying a well known maxim of law, that compacts are to be strictly interpreted, denies any right in the magistrate to inflict punishments more severe than are necessary to obtain the purpose for which parties contracted; that is, more severe than is necessary to restrain crimes, and to keep the peace of society. For this being the object of parties in forming their compact, so far, he argues, every person in society may be supposed to have acceded to the contract, and no farther. This, however, is no more than a circuitous way of asserting, that the state or its magistrates have no right to punish any crime, farther than is necessary for their own defence, or the defence of the cause entrusted to their charge; a maxim that does not require consent to make it binding, but is implied in the first principle of natural law, which limits the means of defence within the bounds of what is necessary for the preservation or recovery of a right.

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* The Marquis Beccaria.

If we must admit the supposition of an original compact, like a bond of copartnery, constituting the foundation of society, and the first charter of rights to its members; as there is no record of the articles originally framed, these must now be inferred from the principles of natural right; for we have no other source from which to derive information of what men were likely to have stipulated or agreed to perform in a period of which no vestige remains.

In the first treaty of peace, by which men agreed to live in society together, we are told, accordingly, that they must have stipulated to abstain from harm. But whence this information, we may ask? Not from the record of any such stipulation! Nay, but it may be assumed from the manifest equity and reason of the supposed article. This is, first, to alledge that a person is bound to be just, because he has bargained to be so; and, next, to presume that he has bargained to abstain from harm, because it is just that he do so.

If we are to suppose, with Mr Hobbes, or as is, in some measure, implied in his resting all the obligations of men in society upon a supposed original compact, that there is no right and no obligation prior to convention; it will be difficult, surely, as the example of Mr Hobbes himself will show, to find a foundation upon which the obligation of contract itself may rest. If contract be the sole foundation of right, all that is commonly said of an inherent right in every person to defend himself, or of an obligation corresponding to this right on every person to abstain from harm, must be renounced. The distinction, supposed between rights original and adventitious, must be dropt. All the rights of men, whether personal or real, are adventitious, and begin with

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with the consent of one man not to disturb the possession of another; and, in short, no man is obliged, even in the latest hour of society, to abstain from harm, except so far as by some species of compact he has bound himself so to do.

Such consequences, however, are sufficiently absurd to justify our rejecting the principle on which they are founded; and are probably far from the thoughts of many, who assume the social compact, as a *fiction of law*, upon which to rest their decisions in particular instances. To this principle, at any rate, we cannot have recourse in fixing the grounds of conventional obligation. That a compact may be binding, we must suppose some previous foundation upon which its obligation may rest, whether the consistency to which Mr Hobbes refers, or the original right of every person to defend himself, to which we have so often referred in these disquisitions.

If the rule that forbids the commission of harm, or the principle of nature, on which is founded a right of defence, can be applied to the case of parties, so far pledging or accepting a *faith* which is pledged to them, as that, by the breach of this faith they may injure or be injured; it will follow, that they ought to refrain from that injury; or may repel it, by obliging the party contracting to fulfil the terms of his contract.

By the law of nature, every party may defend his estate from every invasion that is made to impair it. Of the state which may be thus defended, men derive part from the hand of their Maker, which is accordingly to them matter of original right; part from their own act and deed, as in the case of occupancy or labour, already recited; and we may now subjoin, that they derive

derive part of their state also from the engagements in which others are bound to them; or from the faith that others have plighted.

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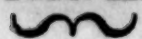
The servant is secure in the engagement of a master to pay his wages; the master relies for his accommodation on the engagement of the servant to do his work. The landlord is rich in the engagement of tenants to pay his rents; the tenant bestows his labour, and scatters his seed, trusting to the lease he has received from the landlord. Even the miser himself, who is disposed to hoard up his wealth, may not have a single penny or article of value in his possession. He is rich in the capacity merely of a creditor, and in holding others obliged to pay the principal and interest, in which they are indebted by bond to him.

Such credit, in one man towards another, is a part of their social nature; and the person who is disposed to abuse his credit may wound or destroy, by means of that instrument, no less than by the arm of violence, or the sword which he wields in his hand.

If it be admitted, that men are by nature disposed mutually to give and to receive information; that where they have no special cause of distrust, they rely on the informations, assurances, or promises which they receive from others; and that great part in the conduct of every person is determined by informations or assurances so received. If the bewildered traveller, in the dark, turns confidently to the right, when he is told that there is a precipice on the left, it must evidently follow, that to mislead him, or to occasion his harm, by any misinformation, would be equally criminal, as to occasion that harm by any other means.

Hence

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Hence we may conclude, that a person being made to rely on the consent of another, to constitute or to reduce a right, is not bound to suffer by the other's breach of faith; but may proceed on the principle of self-defence, to force the performance of a promise which makes a part of his state; and the principle upon which a person, who has come under any engagement, may be forced to fulfil that engagement, is the same with that maxim, on which he may be forced to abstain from injury, or harm of any other kind; inasmuch, that the first principle of compulsory law, which is in appearance merely prohibitory, may branch into a variety of duties or obligations *to do*, or *to omit to do*, whatever may be a fit matter of stipulation betwixt any two or more parties concerned.

To fail in the discharge of such duties is, on many occasions at least, termed *perfidy* or *breach of faith*, and considered with a higher degree of abhorrence, than even the injuries that are done by open force. This may, no doubt, proceed from circumstances peculiar to fraud and deceit. The traitor must have carried the mask of innocence to have obtained credit; he has stolen an advantage which he had not the courage openly to force. The contrast of fraud with the mask of innocence, which it wears, the cowardice which is imputed to the person who assumes that mask in order to wound, combine together in awakening the peculiar sentiment of indignation and hatred, with which perfidy or breach of faith is considered; and which, though they do not make any addition to what is at present the object of our discussion, namely, the right of every person to defend himself against such wrongs; yet they

they tend greatly to evince that the source of conventional obligation is much more deeply laid than the mere consistency of words and actions, upon which it is founded by the philosopher now mentioned.

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SECTION XI.

Of the Laws of Convention derived from the foregoing Principle.

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FROM the account which has been given of conventional right and obligation, it appears that compact, in every instance, implies a plurality of parties, one at least who comes under an engagement, and one or more to whom the engagement is made, and who accept of it. The first may be termed the party *contracting*, the other the party *accepting*.

In many bargains, the parties may be mutually contracting and accepting; as when one party binds himself to convey a property, accepting a price, and the other binds himself to pay the price, accepting the property. But it is not, at present, or in the prosecution of this argument, necessary to consider the parties to a compact in this double capacity.

From the principle stated, it is evident, that to give a supposed compact the effect which we have ascribed to it, in constituting

a right, on the part of one, or an obligation, on the part of another, it is necessary that the accepting party should be made to expect a performance, and that the contracting party should have intentionally done somewhat sufficient to give such expectation.

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Without an expectation formed, there is no object of exaction; and, without a person who has intentionally given cause for that expectation, there is no one against whom the exaction may be enforced.

Agreeably to this decision, it appears, that, although the contracting party may have done what was sufficient to create an expectation, yet if the other party should not, at the same time, do what is sufficient to make known his acceptance, there is in reality no obligation to perform.

The transaction, upon this last supposition, amounts to no more than an offer; and, as the party offering has no intimation of its being accepted, he is at liberty to change his mind, or may have recourse to some other party willing to accept of the offer he has made.

It follows, also, that as a supposed contracting party is not bound to performance, where acceptance is not sufficiently notified, no more is he bound to fulfil any false expectations for which he has not laid a foundation.

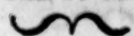
Upon the principle of convention, so explained, we may ground the following law:

That, To constitute a valid contract, is required the mutual consent of parties, acting freely, and in the exercise of their rational faculties;

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and

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and with such means of communication as are sufficient to make known their thoughts and intentions.

In the municipal law of different countries, the forms of convention are prescribed, as in *bonds, bills, or promissory notes*, which constitute a debt; *deeds of conveyance, articles of sale*, and so forth. So that, upon the disagreement of parties, the question at issue may be determined by a third party; that is, by the judge before whose tribunal the reality of the obligation may come to be tried, and who must collect the sense of parties from the form in which they were pleased to express their agreement. But, as the prescribed form may sometimes have been observed, where there is nevertheless sufficient cause to set aside the contract, such cause may be taken into consideration, under the title of an exception, and is often sufficient to repel the plea of the party, who claims the performance of an article, however stipulated in the legal form.

Such exceptions, in the municipal law of any country, are or may be enumerated under the titles of *incapacity, force, fraud, injustice, and impossibility*.

Incapacity may be pleaded against the validity of an obligation, when it appears, that the party, supposed to have consented, was not in the exercise of his reason at the time. *Force* may be pleaded, when he was known not to act freely; and *fraud*, when he was known to be deceived; more especially if the force or the fraud had been employed by the person who afterwards claims performance of the article so obtained.

These exceptions are matter of just and necessary consideration in courts of law, as a judge, if directed merely by the forms prescribed,

prescribed, might be mislaid to sustain an obligation where it is not properly constituted. But, in discussions of the law of nature, where a contract is supposed to consist, not in any prescribed form or mode of expression, but in the mutual assent of parties, acting freely and in the exercise of their reason, the exceptions of force and fraud are precluded in the definition itself; and, where the fact does not correspond to the definition, what we contend for is not an exception, by which to set aside a contract supposed to subsist, but is a negative plea, by which we deny that any contract ever did exist.

The insane or incapable can raise no expectation. A person forced or deceived into a bargain, cannot be expected to fulfil that bargain, when he is at liberty, or has detected the fraud that was employed to mislead him. He may consider the person who employed such means to circumvent him, as guilty of an injury; and may think himself entitled to reparation, instead of being bound to perform the articles of a bargain so obtained.

There may, however, be a real assent of parties to an article of compact which may afterwards appear to be either injurious to the right of some third party, or in the nature of things impossible; and in every such case, there is a real ground of exception, even upon the general assumptions of the law of nature.

The exception of *injustice* may be pleaded to stop execution of an article injurious to a third party, and that of *impossibility* to save the party contracting from fruitless attempts to perform what cannot be done.

Under these titles of *injustice* and *impossibility*, considered as exceptions to a contract, a variety of cases may be supposed.

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1st, That neither party, at the time of stipulating, was aware of the *injustice* or *impossibility*. In this case the decision is, that both parties are bound to drop their pretensions as soon as the exception is known.

A second case may be supposed, where only one of the parties, at the time of stipulating, knew of the exception. If the contracting party alone knew that he was engaging himself to commit an act of *injustice*, he is injurious to the party against whom the wrong is directed. If he alone knew that the performance was *impossible*, he is unjust to the party accepting, in whom he has endeavoured to raise a vain expectation.

If the party accepting alone, knew that the performance would be unjust, he is, in accepting the offer, injurious to the party likely to suffer. If he alone knew that the performance to which he engaged another, was in the nature of things impossible, his acceptance of such engagement was an injury to the person whom he induced ignorantly so to engage himself in fruitless attempts.

A third case may be supposed in which both parties knew of the exception at the time of making their agreement. If the article stipulated was by both parties known to be injurious to a third party, the agreement amounted to a conspiracy against the person concerned. If the article was known by both parties to be impossible at the time of stipulating, there may have been a purpose, by such sham transaction, to impose upon some third party, or else the proceeding must be judged altogether irrational and absurd.

In every contract must be supposed a sufficient mode of communication

munication between the parties. *Language*, whether in speech or writing is the most common, but any other means of expression, supposed to be mutually understood, will be equally sufficient upon the principles of the law of nature, to establish a conventional, *obligation*, or *right*; gestures of any sort understood as signs of declaration or assent; a continued course of action; even single actions may, upon this principle, not only be conceived to express a meaning, but are actually sustained as sufficient expressions of assent before the courts of law in every civilized nation.

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Hence the effect of custom every where admitted as part of the common or the municipal law. Hence the obligation contracted by a shopkeeper, to sell the goods in his shop to those who will pay his price, and the obligation of a person who takes the goods, to pay that price. Hence the obligation of an inn-keeper to accommodate passengers; and the obligation on passengers to pay their bill; although neither one nor the other made any verbal declaration to that effect.

In the ordinary course of things, we look to the future as a continuation of the past, and consider the custom of the country in which we reside, as an assurance of the terms on which we live with the people of that country.

It is evident in particular, that custom may be pleaded against those who take the benefit of it, where it is favourable to themselves; and who, therefore, may be reasonably supposed willing, in their turn, to comply with it, where it is favourable or beneficial to others.

In

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In this manner conventions are tacitly formed, and the laws of every country consists more of customary practice, established by repeated decisions, than of statute or express constitution of any sort.

It is a maxim of natural justice, that every party observing a custom, in those respects in which it is burdensome to himself, is entitled in his turn to expect the observance of it also in those respects in which it is beneficial. A person bearing the public burdens of the state, is entitled to its protection ; and a sovereign, granting protection, is entitled to allegiance and support.

Convention, though not the foundation or cause of society, as implied in the *term of original compact*, may be supposed almost coeval with the intercourse of mankind. Men do not move in the same company together, without communications of mind or intention. These communications become objects of mutual reliance, and even that party may be charged with breach of faith who has belied the expectations he gave by his amicable looks or pacific behaviour. From the first steps, therefore, that are made in society, conventions may be supposed to go on accumulating in the form of practice, if not in the form of statute or express institution.

Political establishments, in many instances, originate in force, and prerogatives are assumed which in the first exercise of them were manifest violations of right. Men nevertheless in process of time, or at least in the succession of a few ages, acquire the habits of their situation ; and succeeding generations may be reconciled to forms that were forced on their ancestors. They adopt as a custom, and willingly submit to conditions which owed

ed their first imposition perhaps to violence. In such cases, we are not always to look back to the origin of a custom or practice, in order to judge of its validity. If it be such as the mind of man may by habit be reconciled to, and willing to adopt, it becomes binding on those who have availed themselves of the custom, where it is favourable to themselves; and are therefore fairly understood to adopt the conditions of it, where these conditions are reciprocally favourable to others.

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Succeeding generations of men are supposed to be comprehended under certain legal establishments, by the deed and institution of their ancestors. This is not strictly true. — Every citizen, as he comes of age, enters upon a scene which his ancestors had prepared for him, but of which the conditions as binding on him cannot be ratified by any one besides himself. He mixes in society, where these conditions are already ratified by others; and he himself in complying with them, and in reaping the benefit of them, gives such assurance of his willingness to accede to the terms already prescribed in his country, as amounts to a sufficient ratification of the same terms on his own part. So that citizens, in every regular community, are bound, not by the institution of their ancestors on which they were not consulted, but by the consent which they themselves have given, by availing themselves of the benefits which result from such institutions.

To the question, therefore, whether persons of one age can bind their posterity in ages that follow? we may answer in the negative: But succeeding ages, nevertheless, become bound in according to the terms on which they live with their fellow citizens.

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In judging of an institution, we may repeat, that we are not so much to look to its origin as its actual nature. Compliance extorted by force does not amount to convention; but justice itself sometimes needs to be enforced, and the wisest institutions, at the time of their first admission, may have been the fruits of compulsion: But, if in the sequel, an establishment be found acceptable, and favourable to the interests of mankind, they do well to abide by it, and, while they do so, no individual can remain in his country, and take the benefit of its laws, without being bound to obey them in his turn.

Thus, it becomes evident, that as it were absurd in science, like Mr Hobbes, to overlook the original rights of men; so it were no less absurd, like visionary theorists, in any question of law or state, to refer to mere original rights, as the sole ground of decision. It were absurd, after a person had bought an estate, to reject the conveyance that was made to him, in order to judge of his title, on such principle of right merely as may be supposed to precede the institution of property.

But, if want of consent, in one age, will not preclude the obligation of compact on succeeding ages, or on those who in the sequel voluntarily accede to a practice, no more will the consent of ancestors, with whom a practice originated, bind their posterity, or those who in the sequel refuse their assent; and, if an institution, however willingly adopted by a former age, prove in the sequel a mere abuse; if it be a continued exercise of injustice and wrong, supported by force on the one part, and a continued series of suffering and reluctant compliance on the other; such practices, however long continued, as they are never ratified by consent, they are never established on the foot of customary practice,

practice, nor do they obtain the force of convention. The oppressed, even after any indefinite period of oppression are free to procure relief by such means as they are enabled to employ for that purpose.

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Thus, it becomes evident that as it were absurd in science, like Mr. Hodge, to overlook the original rights of men; to it were no less absurd, like Whiston's disciples, in any question of law or fact, to reject their original rights, as the sole ground of decision. It were absurdly after a fiction had bought an estate, to reject the conveyance that was made to him, in order to judge of his title, on such intricate point of legal nicety as may be supposed to preclude the transmission of property.

But, it will be said, in one age will not preclude the obligation of compassion to succeeding ages, or on those who in the sequel voluntarily accept their practice, no more will the content of ancestors, with whom they are connected, bind their posterity, or those who in the sequel reject their assent; and, if an individual, however virtuous, is judged by a former age, prove an imbecile, how can a whole nation be supposed to exercise of in-

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SECTION

justice and wrong, supported by laws on the one part, and a continued series of suffering and reluctant compliance on the other; such practices, however long continued, as they are never ratified by consent, they are never established on the foot of customary practice.

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SECTION XII.

Of the specific Obligations and Rights that result from Contract.

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MEN may bind themselves by contract to do, or to omit to do, whatever is within the compass of their will, and not contrary to the right of any other person; *but* in matters, concerning one person, which no way depend on the consent of another, compact were misplaced, and cannot have any effect.

In seizing upon things which are open to the first occupier, the consent of others is not required; or, in other words, the right of possession results from occupancy alone, apart from any consent.

Possession is short of property; because, if the possessor should cease to occupy a subject, he has not any right to exclude another from its use. When relinquished, it is open again to the first occupier, whether the person who formerly possessed it, or any one else.

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This defect, in the right of possession, may be in part supplied by the consent of all the parties, who had access to the subject, at the time it has ceased to be occupied. And thus, a right of property in one person, may be pleaded against all those who consented to forgo their right of occupancy. With respect to such as consent to the property, it is matter of convention; and the person, in whose favour they have given their consent, has so far acquired an exclusive right, that, upon any discontinuance of the use, he may resume it, or even recover his subject, if found in the possession of those who resigned their right of occupancy in his favours.

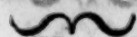
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But this right, which is exclusive with respect to those, whether few or many, who have consented to exclude themselves, can never of itself amount to an absolute property, or be exclusive with respect to all mankind.

Were we therefore to admit the principle assumed by Mr Hobbes, that originally all men had equal rights to all things, and that compact alone could give exclusive right to any thing, it should follow, that universal consent was necessary to give absolute property, or to constitute a right special and exclusive in any one to the sole use of the subject to which he laid claim; and we might infer, on the same principle, that, as no such universal consent has ever been obtained, no right of property is yet fully constituted: Moreover, that as such universal consent never can be obtained, we might also infer, that the existence of a right, in any one person, exclusive of all other men, is impossible, and that men still remain, and must for ever remain, in that original state, in which *all men had an equal right to all things*; and are actually in a state of war, to which they are condemned by the want of any amicable rule by which to adjust their differences.

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Although the idea of universal consent be altogether visionary, yet no one will deny that there is such a right as property, which may originate in the labour bestowed upon a subject unoccupied and unappropriated. And that when property has thus accrued to any one, it may by compact be conveyed to any other, and continue to pass through any indefinite number of hands.

With respect to property, therefore, the effect of compact is not the institution of a right, but the conveyance from one to another of a right previously instituted.

Property determines on the death or dereliction of the proprietor. In either case, the subject is open to the first occupier.

Among rude or savage nations, property being attached, for the most part, to moveable articles, as *arms, furs, dress, or utensils* of any sort; and the principal sign of property being the actual use of the subject in which it is constituted, such articles, when found in the absence of any person who claims the use of them, are readily treated as *res nullius*, or as things open to the first occupier. Hence, much of the rapacity or injustice which is imputed to men in this state.

A conveyance of property implies dereliction, but is not complete, without delivery into the hands of the person, in whose favour the conveyance is made. Were a subject merely relinquished, it would become open to the first occupier. The person, for whom the property was destined, might have an action against the former proprietor for not fulfilling his deed of conveyance; but

but not against a third party, who, proceeding to occupy the subject relinquished, had not come under any obligation to deliver it to him.

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Upon this ground it is observed, that the mere law of nature will not support a legatee, in claiming the possession of an inheritance from any third party, who may have occupied it on the death of the testator.—His action could lie only against the person, whose consent he could plead; but that person is no more, and, upon his demise, the subject in question became open to the first occupier, who may not have consented to put the supposed legatee in possession.

But such questions, in the ordinary course of things, are for the most part precluded. Even among rude nations, where property is least established, the family of a person deceased are naturally the first occupiers of his effects; and inheritance gets a footing, not upon any principle of right excluding the first occupier, but upon a principle of fact, that the family of the deceased are, for the most part, actually in possession.

Among nations more advanced in the progress of property and of arts, the will of a person deceased is admitted as a sufficient ground of conveyance to the legatee. This favour is due to the industry, with which property is acquired; and it has a salutary tendency, among commercial nations, to reward and encourage that industry. Upon this footing, the effect of a last will is derived from convention, such as the living have admitted; not from the destination of a person who is no more, and against whom no action at law can be raised.

A claim of right, founded in compact, is valid only against the party

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party *contracting*; and the right pertains only to the party *accepting*. Such only as have at once a right, in the subject of compact, and power to dispose of it, are competent to an effectual act of conveyance.

As every person may perform what *services* he thinks proper, and has power to dispose of his services by previous consent; *personal service* is the principal and immediate object of conventional obligation.

The *right to command* we have observed, cannot arise from *occupancy* or from *labour* bestowed. It may arise by *consent* so far as one person may, by compact, bind himself to obey the commands of another. Thus the artizan has right to the service of his apprentice upon the ground of his indenture. The master has a right to the labour of a servant he has hired, and persons stipulating the performance of any task or the supply of any commodity, have a right to all the effects of their contract.

In the same manner, we are told that the right of government is founded in the *consent of the people*; and this though true in many respects is not true in all. It is true in respect to all the positive services and contributions due from the subject. If in these the rights of government are questioned they must be evinced on the principle of *convention express* or *tacit*: For on that principle alone the right of command can be established. The consent of those by whom government was first acknowledged is frequently expressed in formal capitulations, charters or statutes; and the consent of those over whom it continues to be exercised, though tacit, is no less real from age to age in the continued acceptance of protection in return for allegiance and political duties. But a
right

right to protect the innocent or to restrain crimes, which the magistrate by his power, alone, is in condition to exercise, he is likewise entitled to hold on the principle of the law of defence alone, and need not recur to any supposed consent of the people to abstain from crimes.

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Amidst the relations in which mankind are placed, by agreement either express or tacit, it may be asked, whether upon the principles of the law of nature the relation of master and slave, can be justly admitted?

This relation is understood to be the same with that of proprietor to the subject of his property, * and seems to have originated in violence or force, and not in consent. Barbarous nations make war to enslave their captives, and dispose of them at market, like cattle or other subjects of property.

Violent institutions, we have observed, if they be such as men in the sequel are reconciled to, and willingly adopt, may become matter of fair convention and be established in custom. How far the institution of slavery may come under this description is the question which we are now considering.

It cannot be doubted, that persons may be found under the denomination of slaves, as much in appearance reconciled to their state, as men are ever observed to be in any other condition of

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* In the language of the Roman law a slave was said to be a *thing* and not a person. *Servus non est persona sed res.*

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life: Shall we therefore suppose them to have given their consent to servitude in the full extent of that term?

To this question, we may answer in the negative, for manifold reasons.

First, If the nominal slave may in fact be reconciled to the specific command or treatment he has experienced; and, if he be supposed by tacit consent to have agreed to submit to such treatment, the master must be supposed also to have agreed not to change that treatment for any other. The slave has not yet experienced, nor has the master yet attempted, all the uses that may be made of a property; and what has not at all been practised, cannot be justified upon the foundation of custom. What has never been tried, cannot be matter of usage. So much for the condition of slaves, who are in appearance reconciled to their lot.

In other instances, it is well known, that slaves, tho' under good usage patient and tractable, are yet by extreme severities driven into a sense of injury and resentment, which is inconsistent with the supposition of assent to the pretended condition of unlimited subjection. The injured feels himself to be a *person*, and not a *thing*; and, tho' he may seem to consent in terms to put his *services*, his *person*, and his *life*, at the discretion of another, yet he cannot abide the effects of capricious cruelty, without a pungent sense of his wrongs, and a just effort of nature to defend himself. Such sentiments are in reality what characterise a *person*, and place him in contradistinction to a *thing* or subject of property.

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The contract of master and slave, if any such were supposed to exist, is such, on the part of the slave, as is not consistent with free will or the exercise of reason. It is the resignation of every thing, in exchange for nothing.

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If any one should formally stipulate to forego his right of defence, and debase his mind to the sufferance of every act of injustice, this were to betray the want of reason, or at least to betray ignorance of the sense in which terms were employed to ensnare him. If such a compact therefore, were pleaded as the ground of an obligation to unlimited servitude, it should undoubtedly be set aside under the exception of *fraud* on the part of the supposed master, or of *insanity* on the part of the supposed slave.

But what is still more than this, a slave, according to the definition adopted, where the institution of slavery took place, and agreeably to the practice of purchase and sale, established in the market for slaves, is considered as a *thing*, and not a *person*. The supposition is impossible, and cannot be realized by the consent of any party, even relating to himself. He may consent to do what another commands, within the limits of possibility; but must continue to be a person, having original if not acquired rights, and inspired by nature with a disposition to revolt, whenever he is galled with the sense of insufferable injury or wrong.

The claim of a master or proprietor is founded, perhaps, with more plausible appearances, on the supposed forfeiture of personal rights, when the reparation of a wrong may support the exaction of servitude: A title which yet remains to be considered, and is the subject of the section that follows.

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In the mean time, the references which we have repeatedly made to the *prerogatives* of government, and the allegiance of subjects, may seem fit rather to start questions, and form difficulties, than to solve them: And we ought not perhaps to dismiss this question, relating to the specific obligations and rights that result from compact, without endeavouring to bring into some clear point of view the several questions that may arise, respecting the rights and obligations of men, under any form of subordination or political institution.

In the first place, we may venture to reject the idea of an *original compact*, as it is assumed, either in the formation of society itself, or in the establishment of any actual government: For men must have been already together in society, in order to form any *compact*, and must have been in the practice to move in a body, before they can have concerted together for any purpose whatever. And we are justified, by the history of mankind, in assuming, That, some species of government being necessary to the peace of society, Providence has kindly ordained, that wherever there is a society, there should be government also, subject to such correction as the grievances, men experience under it, may lead them to apply *.

It is nevertheless a manifest principle in the law of nature, that a right to command, or an obligation to obey, beyond what is required to the mere prevention of harm, can be founded in consent alone. The powerful have a right to command any person to abstain from harm; but not to do any positive service. There may be a power, therefore, without any right of command to this extent; and, where any such power is exercised it may, in the language

* See History of Political Arts, vol. 1st.

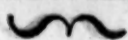
language of English law, be termed a government *de facto*, though not a government *de jure*.

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There is indeed, by institution of Providence, and by an original distinction of dependance and power, in every society, a government *de facto*. And the same may become a government *de jure*, also, if the parties concerned, upon trial of the situation in which they find themselves placed, agree to the conditions which are required in the exercise of government. If the subject, for instance, agree to accept of protection, in return for the positive contributions and services required to public safety; in order to make such agreement binding on every individual, it is true that each, on his own part, must have actually given his consent: For, by the law of nature, no one is engaged by compact, without a consent given by himself in person, or by his agent commissioned for this purpose.

We may be asked, then, under what government did the people assemble in a body, to give the consent necessary to found such a plea of right to command them? We may answer: *No where*. And yet this is the only plea upon which the right to command can be supported. We are therefore bound to verify the plea, before we can urge it in behalf of any government whatever.

The consent, upon which the right to command is founded may not be prior to the establishment of government; but may be obtained under the reasonable exercise of an actual power, to which every person within the community, by accepting of a customary protection, becomes bound to pay the customary allegiance and submission. Here is a compact ratified by the least ambiguous of all signs, the whole practice, or continued observance of an ordinary

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dinary life. The conditions here are ratified, in every age, and by every individual for himself; not merely stipulated, in any remote age, and for a posterity over which the contracting party had not any controul.

It may still, however, be asked, to what length the acquiescence of parties will carry the rights and obligations, whether of the governing or governed. May the subject be supposed to acquiesce in discretionary power, or the magistrate entitled to claim unlimited submission? The answer here is the same as was given to the question of property in a master over his slave. Agreements made known by customary practice can extend only to such practice, and will not justify any violent acts of discretion of either side. And even with respect to practice, if any act of injustice were ever so often repeated, it is not in the nature of things, that the injured should consent to be wronged, or agree to place himself at discretion in the power of the injurious. And, if injuries are committed, the continuance of injustice is a mere accumulation of wrongs, not a form of procedure, upon which any right can be founded.

No consent can be pleaded for the exercise of discretionary power in the magistrate over the subject, any more than for the existence of property in the master over the slave; because neither can be supposed to know the condition to which he consents; and the compact, in either case, would imply an act of insanity, or a resignation of every thing in exchange for nothing. As acts of disorder and licence, on the part of the subject, cannot be justified on the precedent of any actual disorder, no more can acts of tyranny and oppression, on the part of government, receive any sanction from any previous practice or abuse of the same kind.

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Here, then, we rest the speculative doctrine, which is no more than this, that every party in society may, by mutual practice, acquire a right to whatever is practicable, and a matter of fair agreement ; but not to what is wrong, or inconsistent with the safety of mankind. And it is the wisdom of nations, so far to define every right by actual statute, as in every particular question to exclude as much as possible, the influence of passion or partial interest, whether of the governing or governed.

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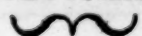
The claim of a right to govern at discretion, or of a privilege to obey at discretion, before either have any effect, is a mere form of words. And, if exercised only in acts of beneficence and duty, the discretion in either case, would be applauded and loved ; but, in acts of disorder and outrage, becomes the claim of a right to do wrong, which is a solecism in terms, and absurd.

SECTION

S E C T I O N XIII.

Of Forfeiture, and the Species of Right which results from it.

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BY the law of nature ; when a wrong is apprehended, it may be prevented ; when an injury is offered, it may be repelled ; and, when a damage is incurred, reparation may be exacted from the injurious party : So that ; as a person may bind himself by consent or compact to do ; or to omit to do whatever is specified in terms of agreement, so a person, having done an injury, may become bound, in terms of the law of defence, to do, or to supply to the injured party, whatever may be necessary to repair the damage he has done.

This obligation, on the part of the person who has done a wrong, may be termed forfeiture ; and the party having incurred this obligation may become bound to surrender to the injured party, under the title of reparation, what was before his own right.

In pursuing the object of defence, the party attacked or aggrieved is entitled, by any means effectual and necessary, to preserve

serve or to recover his state. He has a right to the use of means which are effectual, but not to the use of means which exceed what is necessary, in one case, to repel the attack, that is made upon him, or, in another case, to repair the damage he has sustained.

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These limitations, in the right of defence, are evidently founded in the law of nature; although it may be difficult, in particular instances, to fix or to ascertain their application by any precise rule.

A person, whose right is invaded, may think it necessary to employ all his powers in their utmost extent, to repel the invasion; and he may have incurred an injury in his person, in his honour, or in his reputation, of which it may be difficult to estimate the measure, or to adjust the reparation. Even in the case of trespass, on subjects of real right, as in matters of possession or property, the alarm may not be proportioned to the value of the subject invaded, nor can the measure of injury be always ascertained by the quantity of loss sustained. The intention or mind with which an attack is made, is often more alarming than the material loss to be apprehended; and insult, in the manner of invasion, may be more injurious than the physical harm it occasions.

With respect to the variety of cases that may thus occur, we must be contented to observe, in general, that a person may be bound, to replace, from his own property, the loss he may have occasioned in the property of another; and that, in case of any material damage, he may be bound to render personal services, where he has not effects to answer his forfeiture.

If the injury he has committed affect the good name or reputation

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tion of another, he is bound to retract his calumnies, in the manner most effectual to repair the wrong he has done.

If he have not only impaired the state of the person wronged, but given just ground of alarm, also, on the subject of his future behaviour, he is bound to admit of such precaution, as may be sufficient to guard against the danger of which he has given a just apprehension. And the injurious, in particular instances, is justly exposed to such punishment or suffering, as may be necessary to deter himself or others from repeating the offence.

Nature has happily inspired the mind of man with indignation or resentment of wrongs; and this sentiment may quicken the arm of public justice: But to render the exercise of public vengeance, and the infliction of punishment agreeable to the principle of natural law, it ought not to exceed the allowable means of defence; or be any other than a reasonable expedient for the suppression of crimes; and this principle contains in itself the rule upon which a just gradation of punishment should be accommodated to the variety and gradations of guilt.

In the first place, as the terms right and wrong are correlative, it may be observed, that where a person has not done a wrong, he cannot be said to have forfeited a right; or in other words, as wrong implies some culpable action, no forfeiture can ensue where there is no culpability or blame.

Agreeably to this maxim, involuntary or casual incident, of any sort, although it may be the cause of harm to any one who is placed within reach of its effects, yet is it to be considered, not as a wrong, but as a misfortune, equally an object of regret to the doer, as to the sufferer; and to both equally an object of future

ture precaution. If a person, for instance, should, by falling from a height, hurt or damage the person or property of another, in the way, it is evident, that by such misfortune he might become an object of pity, but not of resentment, that the damage sustained could not be imputed to him, nor the reparation of it in justice be exacted from him. So that, although there may be damage, if there be not a crime, there is no just occasion for the infliction of punishment.

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In the Roman law, a person was responsible for the trespass committed by his beast, as well as for a trespass committed by himself; but this is just so far only as the damage sustained from a beast, otherwise lawfully kept and useful, could be imputed to neglect or culpable inattention, on the part of the owner.

It was admitted, that the owner ought to guard against such trespasses as it was the nature of his beast usually to commit. These he might foresee, and was bound to prevent: But, if an animal should depart from the usual track of his nature, and trespass in a manner that was not to be expected from him; if a cow, instead of a trespass on the pasture or standing corn of a neighbour, should, contrary to the natural instinct of such animals, become carnivorous, and devour the young of a neighbouring herd: Here the damage could not be imputed to the owner, as the prevention of it could not fall within the province of any ordinary or reasonable degree of care or attention.

The decision of law, in this case, evidently proceeds upon a principle, that forfeiture is proportioned to the degrees of demerit, and we may add, that measures of punishment, authorised by the law of nature, ought to be regulated upon the same principle.

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To crimes which originate in malice, or in any deliberate purpose of guilt, sufficiently strong to break through the restraints of conscience or of public repute, a proportional defence and correction must be applied. Where society is alarmed by overt acts of malice or deliberate guilt, sufferings may be justly inflicted that may strike even the obdurate with awe and terror; or, if the life or liberty of the guilty person should be inconsistent with the public safety, he may no doubt, be justly removed by exile or by death.

Offences that arise from sudden gusts of passion, may be restrained or corrected by punishments of inferior degree.

Faults of ignorance or inattention may be corrected by better information, admonition, or even by the experience of an evil thereby incurred.

One order or description of men may be restrained by the fear of shame or dishonour; to restrain another pecuniary fine or bodily sufferings may be requisite; and it is not at all necessary, that we should recur to convention, in order to rest upon this basis the obligation of the magistrate not to confound unequal measures of guilt or public alarm in the promiscuous application of extreme punishment to offences unequally heinous, or unequally incorrigible; nor is it necessary to recur to convention, in order to found the right of the subject to plead his exemption, in every case where unnecessary or disproportional degrees of severity are employed against him.

We have stated forfeiture among the sources of adventitious rights; and, in considering what species of right may result from thence, may proceed to observe, that forfeiture cannot, like occupancy

pancy or labour, give title to a subject, in which no one before had any right. The person forfeiting must forfeit only what was his own, some possession or property which he may be forced to resign, or some service which he may be forced to perform.

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It is farther evident, on the principle of the law of nature, that nothing can be lawfully seized or forced, under the title of forfeiture, except it be of a nature fit to repair or to compensate a damage done, and that more cannot be exacted than is necessary for this purpose. This is implied in the general clause of the law of nature, which limits the means of defence to what is effectual and necessary.

A loss of property may be repaired, by an equivalent in property, or service performed. Even injuries which cannot be repaired in kind, as the loss of a limb or bodily organ, may receive some compensation; and alarms may be quieted by some adequate measure of punishment, having a tendency for the future to restrain such crimes. But it is evident, that, in the clause now cited is implied a prohibition of cruelties or ineffectual severities, which have not a tendency to repair or to compensate the damage suffered, nor to restrain the repetition of guilt.

From hence also we may conclude, that although a person may have forfeited his possession, his property, or his labour, to any amount, yet no one can forfeit all his personal rights, or from a *person* become a *thing* or subject of property. Criminals, accordingly, in the policy of some nations, are condemned to labour, or to confinement for life. In this, however, it is not pretended, that their nature is changed from a person to a thing, or to a subject of property. Capricious cruelties having no tendency to prevent

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prevent or to redress a wrong, are unlawful even with respect to those who have trespassed on the rules of justice.

Among nations of old, captives or prisoners of war were generally sent to the market, or retained as slaves; and from hence was derived the maxim of the Roman law, that a person might become a slave, upon the principle of the law of nations *.

We may admit, that those nations justly considered individuals as involved in the guilt of their country, as often as a just reparation of wrongs was withheld. But, even upon this supposition, they greatly over-rated the forfeiture; or condemned their captives to a privation, which they had not incurred. They had undoubtedly a right to detain them during the continuance of a war, that they might not return to strengthen their enemy. They had a right to exact from them any useful service, which they were in condition to perform, towards repairing the wrongs done by their country: But as this proceeds upon a supposition, that their country had committed an injury, and refused to make reparation, the case of every captive was not the same; and the injurious, who enslaved the subjects of a nation they had injured, were doubly in the wrong.

We may admit, perhaps, that a person, either in the wrongs done by himself, or as involved in the wrongs done by his country, may incur a forfeiture, such as, that after he has bestowed the labour of a whole life in endeavours to repair it, the effect may still

* *Servus fit jure gentium.*

still be inadequate; and we may admit as an inference from this supposition, that the claim of right acquired on the part of the injured, and the obligation incurred on the part of the injurious, may amount to service for life; but an obligation to service for life is yet far short of slavery.

In the first place, it is limited to such useful performance, as the captive is able to render, and excludes the infliction of capricious severities, that have no tendency to repair the damage done.

In the discharge of his obligation, the captive is stated as a person and as a moral agent, who, if he be not willing, may be forced to do what is necessary to repair the wrong committed, but nothing more.

In the next place, as the law of nature supposes the person serving, yet possessed of all those rights, of which the forfeiture has no tendency to effect the reparation in question, it is implied in the same law, that, as often as those rights are invaded, he is entitled to repel the aggression, and to defend himself.

It is still more evident, that no one can be a slave by birth; for, even if he were bound to remain in the state of his parent, yet the state of the parent does not appear, upon any principle of the law of nature, to amount to slavery, or the privation of every personal right; but, even if this privation could be supposed to have been incurred by any convention or forfeiture, on the part of the parent, the child at his birth is innocent or disengaged, and born to the possession of all his personal rights.

From the whole, then, we must conclude, that the relation of
3 master

PART II. master and slave is the result of violence, and cannot have arisen,
 CHAP. III. like possession, property, or lawful command, upon any just title
 SECT. XIII. of occupancy, labour, convention, or forfeiture.

A person condemned to service may accommodate himself to such services as he has been made to perform and to such treatment as he has been used to receive: But this cannot be interpreted as the concession of a right to impose unlimited burdens, or a right to treat him with boundless severities.

One order of men may plead the expediency of holding another in servitude; but men have not a right to impose upon others whatever is expedient to themselves; and we must still conclude, that as no man is by nature the property of another, no more can he become so in any of the ways in which the right of property is acquired.

The conditions of men may be unequal, to any extent; and it may, in various ways, become the lot of one to render service to another: But the law of nature ever prescribes limits of justice or humanity, to the advantage which any one may take of the relation in which he stands to his fellow creature.

So far we have enumerated the rights of men, whether original or adventitious, and have enumerated also the sources from which adventitious rights are derived or begin to exist, and the means by which they may be conveyed from one to another. It remains that we consider the law of nature, in respect to the second part of its applications, that by which it is proposed to regulate the defences of men.

C H A P. IV.

OF JURISPRUDENCE,

PART SECOND, RESPECTING THE DEFENCES OF MEN.

S E C T I O N I.

Of the Means that may be opposed to Injustice in general.

HAVING specified a variety of *rights*, under the different titles of *personal* and *real*, of *original* and *adventitious*, with the different ways in which rights of the latter denomination may be acquired, we proceed next to consider the means by which a *right* may be *defended* or *maintained*.

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Under this title, the laws of war among nations will form a principal object of consideration and discussion; but as every person having a *right*, is entitled to some adequate means of defence, we shall state the law in its most comprehensive form, in which the rights and defences of single parties and of fellow citizens are included, no less than those of nations or separate communities.

We have observed, as the first and most general statement of the law of nature relating to this subject; that a right may be maintained; or, in other words, that a wrong may be prevented, an assault repelled, and damage repaired, in any way, that may be effectual and necessary against the injurious party.

In the farther application of this law we are to consider the variety of persons and circumstances to which it may relate.

Varieties of persons may be comprehended under the titles of *persons single*, *strangers to one another*, and *unconnected*; under the title of *fellow citizens*, and *separate nations*, or the members of which separate nations are composed.

The circumstances under which a right is exposed or invaded, may direct us to the means of defence which may be respectively proper or sufficient on such occasions. In one set of circumstances, or on one occasion, *persuasion* may be sufficient; in another it may be required to employ *deception* or *stratagem*; ; and in a third it may be necessary to employ *force*, at any hazard of suffering to the injurious party. The means of defence, therefore, may be enumerated under the titles of *persuasion*, *deception*, and *force*. The first may take place among friends; the two last
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are lawful only upon the supposition of enmity, and are termed *hostilities*.

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Persuasion consists in the use of argument, representation or rational inducement of any sort, to obtain the consent of the party with whom it is employed. To distinguish persuasion from deception, it is necessary that it should be limited to the use of considerations founded in truth, or believed by the person who uses them to be of real moment in deliberating on the subject respecting which they are offered. To disguise or conceal the truth, to misrepresent any important circumstance relating to it, or to impose with fallacious argument, is rather to deceive than to persuade.

Under this limitation, *persuasion* may be employed to obtain a favour no less than to defend or maintain a right; and as they who may be persuaded to do right are not to be considered as injurious or maliciously inclined, they are not objects of punishment, whether punishment be considered as an example to deter the injurious, or as a precaution to guard against any future criminal attempts.

Persuasion is amicable; but where amicable means are not sufficient to preserve a right, *hostilities* no doubt are lawful; and among these *artifice* or *deception* where sufficient, may be chosen as the least hurtful to the person against whom it is employed.

Deception or misinformation, in the nature of things, even apart from distant consequences, is pernicious; and to employ it without necessity is an injury. The person against whom it is so employed has subject of well-founded complaint; or may demand

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information of the truth as his right. Even a person who is put upon his defence, may reject the use of disguise or deception, as dishonourable means of safety to himself: But we are not enquiring, in this place, what is the most honourable part for the injured to act, but what the supposed injurious person may claim as a right, respecting the use of means to be employed against himself.

It is admitted, among the modern nations of Europe, that requisition of right, *manifesto*, and solemn *declarations of war*, should precede *hostilities*, or the actual use of force. Disguises and artifices, nevertheless, in certain negotiations or transactions of state, are employed to gain an advantage, perhaps, without any supposed infringement of this rule.

There is, indeed, a general disposition to reprobate *artifice* or *deceit*, even when employed to repel an injury, or to frustrate a malicious intention. This proceeds upon an association of baseness or cowardice with every act of dissimulation or falsehood, which we accordingly reprobate under the denomination of *treachery*: But this appellation no more applies to the use of stratagem in repelling an injury, than the term murder applies to the use of a sword or deadly weapon in repelling an assault on the person or property of an innocent man. If a person, acting in his own defence, may receive an assassin on the point of his sword, how can it be supposed, that he may not withhold information from him, or even by misinformation mislead him from the execution of his malicious purpose.

The assassin who pursues an innocent person, in order to murder him, may no doubt be lawfully told, that the person he seeks
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is gone to the right, when he is actually gone to the left. In this manner, deception or stratagem is universally admitted as just on the principles of the law of nature; and, although persons who consult the reputation of bravery may think that open force is preferable to deception or disguise of any sort; yet, upon the general principle, that rights are to be defended by means the least hurtful to the persons against whom they are employed, deception and artifice is in general to be preferred to the use of actual force.

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The use of *force*, it is true, may not always be more severe or destructive in its effects than the use of deception; but, as force repelled by force is likely to proceed to the highest extremities, it is justly placed as the last resort of the injured in defending their rights, and not to be employed where it is safe to rely on persuasion or stratagem.

Under this title of *force* may be included not only the use of arms and actual violence, forcible restraint, and the infliction of punishment, but even threats, or the denunciation of violence, which may operate on the fears of those against whom they are employed.

Such being the gradation of means, that may be employed in defence of a right, the law of nature is modified, in particular circumstances, by a regard to the choice which is to be made of such means, according to the degree in which they are severally effectual or necessary.

In the applications of this law, also, regard must be had to the description and relation of persons, whether *strangers* and *unconnected*,

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needed, fellow citizens, separate nations, or the members of which separate nations are composed.

Of the law, as it applies to the case of persons so diversified, it is proposed to offer a few of the most necessary observations, in the following sections.

SECTION

SECTION II.

Of the Law of Defence, in the Case of single Persons, Strangers and unconnected.

THE parties to whom the law of defence is to be applied in this section, are termed *single*, because we mean not to consider peculiarities incident to collective bodies, considered as such. They are termed *strangers* and *unconnected*, because we mean not, in deciding any question that may arise between them, to take into our account the effect of any previous convention either express or tacit.

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In supposing such parties, we abstract from all the peculiarities which occur in the case of fellow citizens, under the effect of their municipal laws, civil or political institutions. We abstract from the peculiarities which diversify the case of separate nations, modified as it is by previous treaties, claims, or conventions, or by the mode in which collective bodies are made up of the members which severally compose them.

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The case, then, which we are now to consider, is supposititious, and a mere abstraction. So that, in this point of view, the circumstances of a case, which in nature are joined with many other particulars, are to be stated apart, and separately considered. Such abstractions are useful in argument; but must not, or ought not to be mistaken for matters of fact.

This caution has not always been observed, in treating of the abstraction which we have now made. The case of parties, strangers and unconnected, has been termed the state of nature, and even mistaken for historical fact: But, in applying the law of nature to this supposition, it is not by any means necessary to admit, that the whole of the human species ever consisted of parties unconnected, or that men ever existed in a state of individuality, or in a state of estrangement of one from all mankind. The purpose of science is effectually served, by supposing two or more parties so unconnected, although neither be supposed unconnected with the whole species.

The term, *state of nature*, as equivalent to the abstraction which we now make, has been employed by writers, who do not by any means seem disposed to favour the assumption of estrangement from his kind, as the natural state of man. Dr Blackstone, among others, has made use of that term in the following passage: "If a man," he says, "were to be in a state of nature, unconnected with other individuals, there would be no occasion for any other laws than the law of nature and the law of God; neither could any other law possibly exist." But he afterwards subjoins: "Man was formed for society; and, as is demonstrated
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“ by the writers on this subject, is neither capable of living alone,
 “ nor indeed has he courage to do it *.”

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The state of nature, then, according to this learned and judicious writer, is not the natural state of man, but a mere abstraction made for the same purpose for which abstractions are commonly made in the pursuit of science; that we may have a distinct view of certain considerations separately taken, before we proceed to view them as combined in the aggregate forms under which they are actually presented in nature.

Man, even in his physical state, exhibits a sum of many simultaneous circumstances, whether original and coeval with his being, or, what is nearly the same thing, immediately consequent upon it. He has occupied something that is useful to him, and has a right of possession; he has laboured to some purpose, and has a right of property; he is a father or a child, the member of a family or some larger society; and the simplest movement he can have made with his fellow creatures, may amount to convention, or some adventitious modification of his original obligations and rights. So that we shall find no actual period of history in which we can apply the reasonings of this section to the species at large, or to any considerable numbers of men.

We may suppose two persons, at the same time, cast ashore on some desert island, and such is perhaps the only possible case in which our supposition can be realized; and our question at present with respect to it is not, what would be mutual inclina-

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* Comm. on the Laws of England. Introd. Sect. 2.

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tion of such persons at their first meeting, whether to co-operate as friends, or to encounter as enemies? This question is no doubt of consequence in forming our notion of man's destination, whether to peace or to war, to society or solitude: But that the decision in such a case might apply to human nature in its simplest state; it might be necessary to set apart any previous effects of experience or habit, by which either of the parties separately, or both, might be previously disposed to act a part which nature would not have suggested to them prior to such experience or habit.

It cannot be doubted, that in so forlorn and disastrous a state, each would rather meet with a friend than an enemy, and each would rather make a friend of the person he casually met than an enemy. There is, however, reason to believe, from the principle of caution with which human nature is endowed, even in childhood, and which experience may direct, but does not remove, that such persons would approach one another with mutual circumspection and caution, each rather with fear of what he himself might suffer, than with any disposition to annoy his fellow creature; and universally it may be assumed perhaps, that the earliest sensation of human nature, as Montesquieu has observed, is rather a feeling of weakness and a need of support, than a feeling of strength or a disposition to provoke animosity.

But whatever may be the solution of this or any such physical question, our object at present is not to determine, what the parties in such a case might be inclined to do, but what each would have a right to do for his own preservation and defence. We would state the decisions of the law of nature on a supposition of the simplest case, in which parties are vested merely with their original rights and the means of defence with which they are accompanied:

accompanied: Our decisions; therefore, upon this supposition can be little more than a repetition of what has been already stated in the general enunciation of the law; whether respecting the rights of which man is born in possession, or which he is competent to acquire, and the general permission of means effectual, so far as they are necessary for the preservation of such rights.

Together with the original appurtenances of human nature, *life, limb, and faculty*, we must likewise admit all those rights, which, even acting separately and unconnectedly, the individual may acquire for himself. We must suppose him entitled to defend not only his organs and powers, but the fruits and effects of them also; entitled to defend his possession, as first occupier of any subject that accommodates him; or his property in a subject, as having employed labour to meliorate or to procure it: So that, together with his rights of original possession, he is entitled also to defend his right, to make acquisitions by labour, convention, or otherwise.

If, in the midst of rights so defined, one party shall commit an injury, or give just cause of alarm to another, this other is entitled to his defence and is not restrained in the choice of means, by any consideration beside the general provision of the law of nature already stated; a provision which admits that effectual means may be used, but in which unnecessary acts of cruelty or severity, with respect to those against whom such means may be employed, are strictly prohibited.

Upon the supposition of a difference subsisting between parties otherwise strangers and unconnected, or what is called the state of nature, it is sometimes asked, who is to judge or to decide

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between

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between parties in this state? This in effect is first to suppose, that parties having no convention are amenable to no jurisdiction inferior to the tribunal of God, and afterwards to enquire to what human jurisdiction such parties are subject.

They may or may not submit to an arbiter at pleasure; and, though nature has limited the means of defence to those which are necessary, the observance of this limitation, together with the exercise of every other right, would in fact depend on the discretion and candour of the parties themselves; a case in which no provision being made against the passions or mistakes of men, applications of the law of nature, however clear in theory, might be very lame and imperfect in practice; and such condition of parties, if ever realized, should be deplored as calamitous, or exposed to much inconvenience and evil.

The inconvenience would suggest, for its remedy, recourse to the judgement and arbitration of some third party, more impartial than either of the persons more immediately concerned. The utility of some permanent recourse of this sort, would naturally lead to political institution, and the establishment of ordinary jurisdiction and protecting power: So that, while we suppose men to be associated from their birth, or otherwise cast into groups together, every difference or dispute would suggest the necessity or utility of political establishment.

Society is the natural state of man, and political society is the natural result of his experience in that state of society to which he is born. This is not the experience of single persons, or of single ages. It is an experience, which began with the commencement of every society, and can end only with its final extinction. Political

litical establishments, accordingly, which began to be formed in the first and simplest ages, continue in a state of gradual formation, as the experience of every age directs, to the latest period at which states or communities, in the course of things, are allowed to arrive.

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The people in republics, in the last as well as the first stage of their political union, are devising rules by which to govern themselves.

The monarch continues to settle terms, on which he proposes to distribute rewards and punishments, honour or disgrace, among his subjects. And the despotical master continues to make known the advantage he proposes to himself or his people from the exercise of his power; whether in the gratification of a divine benevolence, that of Antoninus; or in the gratification of a brutal appetite like and passion, like those of Caligula and Nero.

SECTION

SECTION III.

Of the Case of fellow Citizens.

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THIS case is indefinitely varied in the multiplicity of political forms. Our object, with respect to it, is to enumerate, in general terms, the principal parties of which every political society consists; and to state the obligations and rights, which are essential to their relation, as members of the same community.

Civil society is not improperly termed a state of convention; for, although men are actually in society together, before they enter into any form of bargain or compact; yet, every step that is made, in the concourse of numbers, tends to convention. Every practice continued into custom, is fairly interpreted as the faith of parties plighted for the observance of it; and the members of every society, even of the shortest duration, become invested with rights, or subjected to obligations, founded in some species of contract express or tacit.

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But we now cease to enquire in what form the civil or political compact is ratified, whether by practice, capitulation, or statute. These are the proper study of professional lawyers, to whom the supreme authority of their respective communities is the ultimate rule in adjusting the obligations and rights of men.

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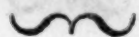
To the citizen of every particular community, the specific law of his own country is the tenure by which he holds his rights, and the measure of obligations which he is bound to fulfil; but, however the civil institution, in any particular instance, may appear to depart from the law of nature, by adopting modifications, which in their first assumption were optional to the parties concerned; yet, as such modifications are founded in convention, there is not any species of obligation or right, actually valid in any community, that may not be traced to this its foundation in the law of nature.

There are certain relations of men essential to every society or community considered as such; and there are certain obligations and duties which may not only be traced to their foundations in the law of nature, but which are to be considered as immediate objects of that law, and placed, as we now propose to place them, among the cases to which the law of nature is immediately applicable.

Under every political establishment, there is a relation of *magistrate* and *subject*, and a relation of *fellow citizens*, which, however diversified in particular instances, are nevertheless in a certain abstract point of view common to every establishment, and essential to the nature of political society itself.

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It is our object, at present, therefore, to state the relative conditions of magistrate and subject, and the relative condition of fellow subjects in the most general terms, so as to comprehend the obligations and rights which enter into the nature of political society itself considered as such, without attempting to specify the peculiarities, by which the relations of men, in different instances, may be diversified.

It is the condition of the magistrate, in his most abstract point of view, to govern and to protect the subject: It is the condition of the subject to be governed and protected.

It is the mutual condition of fellow citizens, in the same abstract point of view, to be vested with rights, in regard to which they are to one another reciprocal objects of consideration or respect: It is implied, in the character which is common to them all as fellow citizens, that, if any difference arise between them, they recur to the judgement of the magistrate, and that, wherever his interposition can be obtained, and may be effectual for the prevention or redress of wrongs, they are to refrain from any application of force on their own part, and to acquiesce in such means of defence, as the magistrate is duly bound to employ for their protection.

The citizen, therefore, in preserving his rights amidst the collisions of different claims and pretensions, resigns into the hands or the magistrate the weapons of defence, which, upon the supposition of *parties strangers* and *unconnected*, we found the individual entitled to use for himself. And the magistrate may not only employ the authority with which he is vested, so as to defend the innocent,

cent, but lies under an exprefs obligation, fo to employ it: whilst every other citizen, whatever be the means of defence with which he is cafually furnished, is reſtrained from the uſe of them, provided the interpoſition of the magiſtrate can be obtained for his ſafety.

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Theſe are conditions implied in every political eſtabliſhment, and without which ſociety either cannot be preſerved, or cannot be ſaid to have received any political form.

In theſe conditions, however, the *obligations* and *rights* of the parties, ſo general and ſo neceſſary, are derived from convention alone. The magiſtrate has agreed to protect the ſubject, otherwiſe is not bound to this any more than to any other act of beneficence which he may perform at diſcretion. The citizen has agreed to abide by the judgement of the magiſtrate, and to refrain from any attempt to do himſelf right, where the interpoſition of the magiſtrate can be obtained for that purpoſe; and, although the form, in which ſuch agreements are entered into in different communities, may vary indefinitely, yet the compact, in reſpect to its general reſult, is the ſame in every inſtance; and the parties may equally plead their conventional rights and reciprocal obligations in every community.

We have already had occaſion to obſerve, that the right of the magiſtrate to interpoſe in the defence of the innocent, or in the reſpreſſion of crimes, does not need the ſanction of compact, in order to eſtabliſh it; for this right is common to him, with every other perſon having power, in whatever manner that power may be conſtituted, whether in the ſtrength of his arm, or in the co-operation of numbers that obey his commands.

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In what, then, we may be asked, is the right of the magistrate conventional and peculiar to himself? It is conventional and peculiar, in so far as he alone is entitled to employ his power to this effect, and so far as every other person is restrained from like application of power, wherever recourse can be had to that of the magistrate. In the absence of the magistrate, or where his aid cannot be obtained, the subject may defend himself and his fellow citizens; and every individual man, to the utmost of his power, may interpose in the prevention of crimes.

The right of the magistrate, therefore, to repress crimes, and to protect the innocent is prior to convention. His obligation, at the same time, not to employ means unnecessarily destructive or severe, even against the person who has incurred his opposition or his censure, is also prior to convention; and there is, as we observed upon the foundations of the law of nature, prior to any concert or agreement of parties, a rule for the application of various restraints, and the gradation of punishments.

Crimes, we have observed, are unequally pernicious and dangerous, and unequally alarm the community. The more forcible efforts of defence are justified by the higher degree of alarm which the crime is naturally fitted to give. Some disorders are more easily restrained than others; and to these an inferior measure of punishment being sufficient, the magistrate is not entitled, by the law of nature, to employ punishments of superior degree.

Different descriptions of men, we have observed, are governed by different motives. The law of nature will not authorise, with respect to any one class or order of men, an higher measure of punishment,

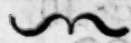
nishment, than is sufficient to restrain them. The fear of torture or death may be necessary to restrain those who are insensible to any other considerations; while shame, or the fear of disgrace alone, may be sufficient to restrain, or to reclaim another order or class of the people.

As nations, by statute or custom, are found to depart from the conditions which the law of nature, prior to convention, has imposed; so they have seldom been found to observe any regular gradation of punishments, or at least to remain within the bounds which simple justice, in every particular case, would prescribe. They have departed from the law of nature, in the terms of their convention or practice; and, in the result, sometimes find themselves engaged in forms of administration no less inexpedient than cruel and unjust.

If, to the maxims of strict law we may be allowed to subjoin considerations of expedience, it is evident that, by withholding distinctions in the measure of punishment, we inure the minds of men to confound the higher and lower measures of guilt. And, if a criminal be to incur the higher measure of punishment, even for crimes of a less heinous nature, his case, in proceeding to infringe the law, is the same as if no punishments were to be inflicted for the higher crime; and he will therefore prefer it to the lower, if his temptations incline him so to do.

By the law of nature, a magistrate, in restraining a crime, may proceed to the use of means that may be necessary for that purpose; but this law, instead of being strained to the utmost pitch of severity, ought rather to give way to considerations, which hu-

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manity no less than expedience, in many instances, will suggest.

The conceptions of men, on the gradations of demerit and criminality, may be greatly affected by the promiscuous application of punishments. And, although the principle of defence, strictly applied, would justify that measure of punishment, whatever it may be, which is necessary to repress the crime, yet prudence, as well as humanity, would in some instances reject this authority, and reprobate the application of a punishment, against which human nature would revolt more than even against the crime itself.

A licentious intercourse of the sexes is highly pernicious, and the highest measure of punishment might perhaps be necessary, and still ineffectual to repress it entirely; but it is evident that, if the punishment of murder were to be applied in this case, the remedy or the antidote might be more shocking to human nature, and even more pernicious to mankind, than the evil itself.

It may be more difficult to restrain a theft committed under the pressure of famine or want, than one committed for gain. It may be more difficult still to restrain a theft committed for the relief of a perishing family, than one committed for the supply of personal want; yet human nature must revolt at the supposed application of strict law in such cases; and indeed it is admitted, in the ordinary jurisprudence of all nations, that the extreme necessity of one person may so far supersede the right of another, as to disarm the power that is provided in civil society to enforce this right.

To succeed in establishing a just gradation of punishments, we must

must come with reluctance to the use of extreme severities and avoid a precipitant application of punishment in the treatment of the lower offences. When slight offences are punished too severely, it becomes difficult properly to increase the measure of punishment for the higher crimes. When under the Roman empire, for instance, a sarcasm on the person of the emperor was punished with death; it was not possible to find a proportionate degree of severity for the crimes of perfidy or murder.

But whatever may be the gradation of punishments adopted, it is evident that the higher measure of suffering, may on occasion, be necessary, and cannot be replaced by the lower or any intermediate degree. There may be crimes, we have observed, bearing evidence of a disposition so depraved, and in appearance so incorrigible, that it may be necessary, by exile or death, to remove the criminal from the society whose peace he alarms. And even, according to the circumstances of his crime, it may be necessary to distinguish this sacrifice with peculiar marks of reprobation and horror, to operate as an example against the indulgence of similar dispositions in other men.

It is no doubt possible in the application of punishments to err on the side of remissness as well as rigour. Mercy to the assassin is cruelty to the innocent, who may be exposed to suffer by the commission of his crimes.

We hear of sovereigns to whom the executive powers of law are committed, who, either from mistaken lenity, or from an apprehension of somewhat too sacred in the life of man to be taken away by any human authority, have declared against capital punishments; or resolved for a time to suspend the use of them. The
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object of government, in the mean time, is not mercy to criminals, but the repression of capital crimes which endanger the life as well as other rights of the innocent. And there is surely no wisdom in declaring that criminals alone, for the future, shall take the life of a fellow creature. If the life of a man is too sacred to be taken by any human authority, what is the innocent traveller to do, when attacked on the high way with weapons that threaten his life? what is the state to do, when invaded by a foreign enemy, who forces his way by the destruction of all that oppose him? What is the soldier to do, when he finds himself under the necessity to kill, that he may not be killed? In short, what is the magistrate himself to do, when he finds the lives of innocent subjects in danger from the profligacy of disorderly persons, who are ready to sacrifice the peace of their country to the gratification of their vicious passions? If a life must be exposed, either that of the innocent at the discretion of criminals, or that of criminals at the judgement of the magistrate, it is surely evident on whom the choice should fall.

We plead for a just gradation of punishment, not that the guilty may escape, but that the innocent may be safe, and that no one may be exposed to greater severity than he has actually incurred by his crimes.

From the whole of this argument, then, it appears, that the law of nature, where there is no convention to the contrary, limits the right of the magistrate to the use of such means as are necessary to the defence of the innocent or the prevention of wrongs; that all restraints or severities, employed beyond these limits, are unlawful; and that, even prior to convention, a rule may be found upon which to erect a just gradation of punishments.

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Although convention be not necessary to authorise the magistrate in the discharge of his duty for the repression of crimes; it is by convention that he alone is invested with the exclusive prerogative of interposing at all times in defence of the innocent. In every well ordered community his powers are acknowledged or instituted expressly for this purpose, and fellow citizens are understood to have agreed to refer their differences to a judge, to forgo the use of force in themselves, and recur to the magistrate for protection.

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This fundamental convention of fellow citizens is that which essentially distinguishes their case from that which was considered in the last section. It is that which constitutes the specific advantage of those who have the benefit of political establishments.

The citizen, even when injured, must not do himself right; but must have recourse to the protection of the magistrate for this purpose.

There are, however, exceptions to this salutary rule; either where, in the nature of things, the interposition of the magistrate cannot be obtained to prevent a wrong, or where the injury, once suffered, cannot be repaired by the utmost exertions of his power. In every such case the spirit of political institution, which is inspired by a concern for innocence, requires, that the innocent should be allowed to defend himself. If this were refused him, the society to which he has recourse for protection would in fact become a snare, in which he would be exposed to suffer without any hopes of redress.

It is admitted accordingly, that any one assaulted in his habitation

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bitation, or in his person has a right to repel the assault. The maxims of law in different countries may be unequally favourable to this act of defence, requiring unequal degrees of caution in proceeding to the last extremities. In some it is required, that a person assaulted should endeavour to escape before he repels force with force: But as an attempt to escape may in some circumstances augment the danger to which the person assaulted is exposed, it appears unjust and cruel to expose him to this additional hazard; and the humanity which seemed to take part with the aggressor, is indeed more properly due to the person attacked, who ought certainly to be indulged in defending himself at any necessary hazard to the person who assails him.

A woman who is forcibly attacked in her chastity, or a man who is put to the trial of personal estimation or honour, may receive an injury, which the utmost power of the magistrate cannot afterwards repair. The exception is accordingly admitted, in favour of the private right of defence, on such occasions.

Among these modes of attack, there is a singular species of injury, owing its effect to the caprice of manners in modern times; but of which the effect is extremely severe and injurious, not susceptible of any legal measurement, nor repairable by all the power of the magistrate.

In consequence of this singular caprice, altogether unknown to the celebrated nations of antiquity, not only aspersions of character, but any single term of reproach, or gesture of insult, so far impairs the estimation or credit of the person who suffers them; that, if the breach be not repaired, in the way which caprice also directs, he becomes an outcast from the society, in which his condition

dition depends on the esteem in which he is held. Applications to the courts of justice, for reparation, would only increase the dishonour. False aspersions may be removed by the clearest evidence of truth; but this would not remove the dishonour of having suffered them to be made. An accusation may be known to be true or false; its effect, however, in this case, does not depend upon the degree in which it is believed, but upon the degree of tameness with which it is received. Even calumny hurts, not by the imputation of any criminal charge, but rather by the imputation of cowardice, implied in the manner of receiving it; and the defence which caprice has provided for this mode of attack, is a display of courage, not a refutation of any false accusation. The accusation may be true; but the courageous vindicates his honour: The accusation may be false; but the coward is overwhelmed with disgrace. Even the injured is denied the use of stratagem or surprise, in his own defence. He must meet his antagonist, however injurious, upon equal terms; and, if he would preserve his honour, must pass through the hazard of a single combat for that purpose. His character for integrity may be blasted or entire; but his estimation, in point of honour, is independent of either condition.

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In this example, the deviation from reason is monstrous; but the dignity of justice is made to stoop to the caprice of fashion; and, so long as the private injury is suffered to have its effect, and the petulance or folly of one person may drive another from his place in society; so long as the magistrate cannot preserve the citizen in his state; so long the injured citizen must be allowed to defend himself, and to adopt the only means which are effectual for that purpose.

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To reform this abuse, has been justly considered as an object of great importance in the policy of modern nations: But attempts to this purpose have begun, perhaps, at the wrong end, by denunciations of severity against those who, finding their honour invaded, take the ordinary way of preventing or repairing the wrong with which they are attacked. If men are by vulgar caprice made accessible to an injury of the most serious nature, to an injury which the magistrate cannot repair, it is by no means just to restrain them from the only means of defence that is left in their power. This being evident to the general sense of mankind, the only effect of severities denounced by the law, in most countries, against the injured, as well as the aggressor, has been to oblige courts of justice to fall upon measures to evade the rigour of that very law they are required to apply.

If any thing could be done, to deprive unmerited affronts of their efficacy in the opinion of those who determine what shall be a gentleman's reception in the world, the evil might probably soon give way, and the sensibility of honour be changed into a contempt of offences which are now admitted to have the most fatal effects.

We sometimes congratulate ourselves on the influence of this practice, as it tends to polish our manners, and restrain the violent from offensive brutalities, to which passions may lead in the intercourse of society. We do not consider, however, that we owe our sensibility to such offences to the imputation of cowardice, which is made to accompany the sufferance of them; and that, without this imputation, unmerited insults would pass in society, like the noise of a scold, in which no one is ever pleased to

to think himself affronted, and which he therefore hears with contempt or indifference.

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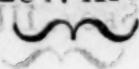
Crimes that proceed from the affectation of bravery, are not to be repressed by the fear of punishment. The threats of law, in such cases, give the quarrelsome a double opportunity of distinguishing himself. He braves his antagonist, and he braves the law. Even if he should be punished, his suffering does not degrade him in the opinion of the people; for the people, like himself, admire bravery, even where it tends to disturb the public peace.

Absurdity is more likely to cure itself, by being suffered to incur its extreme, than by being kept within certain bounds, which serve to conceal the extent of its folly; and duelling, like other fashions, is likely to wear itself out when it becomes an affectation of the vulgar, and ceases to distinguish those who are termed men of fashion.

If there be in our times a progress towards this point of reformation, we have reason, in the mean time to regret the condition of those, perhaps the least deserving of any such fate, who may suffer under the prevalence of a folly, of which they cannot always avoid the effects.

Were the law to distinguish the *aggressor*, in the first approach to a quarrel, just marks of disgrace affixed to the person in whom the offence originated, might perhaps inspire every party with caution to avoid a quarrel, and have better effects than any forcible restraints applied to check the affectation of courage. It is not valour to brave disgrace; and, if the law should condemn an aggressor to some species of infamy, the fashion of seeking for ho-

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nour, by rashness in giving provocation, might be restrained by the prospect of an opposite effect.

It might be difficult, indeed, in many cases, to fix the charge of aggressor upon either of the parties in a quarrel: But the best effect of law is not merely to give the decision where an occasion of trial has arisen, but to prevent such occasions, from an apprehension of a decision that may be given. All that the law, indeed, can do, is to lay down a rule, and leave juries to apply it to the best of their judgement, on the circumstances of every particular case. The rule, even before it is applied, would have its effect on the minds of those who are exposed to get into quarrels, and who, by avoiding the imputation of being the first aggressor, might prevent the first steps towards an offensive dispute.

Juries, too, in some instances, might be able to fix the charge of aggressor, so as to increase the effect of the law by real examples of ignominy and disgrace. We pity the person who is forced into a quarrel, to vindicate his honour; but we detest the bully who is ever forward in giving rise to such quarrels; and any disgrace which the law might award for such characters would be supported by the general opinion and consent of all reasonable men.

These are questions of political wisdom, rather than of strict law; but are stated with advantage, when the laws to which they refer are under consideration.

Such, then, we may conceive to be the prerogative of a magistrate, in restraining crimes and offences. It is in part prior to convention, and a concomitant merely of his power. It is limited

ed to him alone, by the convention of fellow citizens, in which they have agreed to waive their right of personal redress, and recur to established tribunals for judgement in their differences, and to the power of the magistrate for his protection, in maintaining or in recovering a right; a convention, the articles of which, in whatever form they be stipulated, whether of statute or customary practice, are essential to the relation of fellow citizens in every case whatever; still admitting, indeed, the exceptions we have mentioned in cases to which the interposition of the magistrate cannot be effectual, or cannot extend.

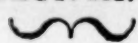
Members of the same community are thus understood to have their conventional obligations, relating not only to matters of right and wrong that may come into question between them, but also in relation to certain positive duties which they owe to the community, and of which the magistrate is appointed to inspect the performance.

Political establishments cannot subsist without the support of their members, contributing either by their means or by their personal services to the public defence, or to the arrangements which may be necessary for public prosperity. In the very nature of political society, therefore, convention to this amount is implied.

Under this general title of political convention, may be included every law and established custom relating to the prerogative of the magistrate, whether supreme or subordinate, or relating to the privilege of the subject, of whatever rank or condition.

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There are, in most communities that have made any progress in political arts, certain primary articles, which may be termed fundamental laws of the constitution. In these articles the description of the sovereign power, whether a King, Nobles, or majority of the people, is either given or assumed. The powers to be exercised, and forms of proceeding are ascertained. The immunities, as well as the duties of the subject, are specified.

Such fundamental laws, or conventions, are neither the foundations upon which society was originally formed, nor do they always follow soon after its first institution. They come in the sequel of circumstances into which men have passed, without any view to political establishments, as in the sequel of casual subordination of ranks, arising from personal *qualities, birth, education, or fortune*: They are sometimes the result of amicable deliberations, and sometimes such as prevailing parties may have obtained by force. Mankind are known to live for many ages in society together, before they are sensible of the inconveniences, whether arising from the abuse of prerogative or the abuse of privilege, for which political law is intended as a remedy. The evils have sometimes taken a deep root, before the attempt is made to remove them; and civil war is frequently the prelude to the establishment of order upon any permanent footing. Thus the great charter in England; many of the political capitulations in Germany, the pacification of parties at Rome, and what may be termed the fundamental political law in the instance of many other states, was the result of war or contention that arose after many ages of society had elapsed.

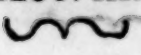
Political establishments in some instances appear to have no other foundation than custom, or a succession of acts which imply, that

that parties acquiesce, in the state of their country, or in the forms according to which its affairs proceed; and in justifying the exertions of government in such instances for promoting the public welfare, we seldom look farther than to the actual tendency of administration to the public advantage.

It is a part in the social nature of man, to hold the action of a fellow creature, as justified on the principle of benevolence, made known in acts of public utility; but any claim of right to extort benefits, cannot, prior to convention, be admitted, without leading to consequences extremely dangerous and hurtful to the cause of society. If benefits were to be enforced, beneficence would cease to be known as a virtue, and what ought to be a voluntary act of good will would become the effect of mere compulsion.

The use of compulsion, upon the principle of mere utility, would become a very dangerous precedent. The powerful could easily obtrude this plea, wherever they thought proper to exert their violence, and under pretence of extorting public benefits, the greatest of public evils might arise in a want of security to those very rights which government itself is established to maintain. The people is not safe, if the magistrate may not only, restrain crimes and disorders, but also exact contribution and actual service, beyond what he is authorised to demand by special contract, statute, or custom.

Any right in the magistrate or sovereign to exact contribution, or positive service of any sort, from the subject, being founded in convention alone; we may consider the different constitutions of government as so many compacts diversified in the *terms*; or as so many bargains in which the parties are variously bound, or in which,

PART II. in return for what they are engaged to perform, they accept of un-
 CHAP. IV. equal conditions. The terms may be unequally expedient; une-
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 neral. They may have been suggested by the relation in which
 parties were occasionally placed, as when the prerogatives of mo-
 narchy or aristocracy arose by degrees from the continued dis-
 tinction of families, and the advantage of hereditary possession.

The terms to which some of the parties submit may have even
 been imposed by actual force; but in all communities, so far as
 a right to enforce the performance of public service is supposed,
 we must be able to derive this right, either from the original
 principle of self defence, or from the principle of contract, on
 which alone one human creature is bound or may be forced to
 serve another.

It may asked, then, on what principle of justice are we to rest
 the exercise of compulsory law, in the case of governments which
 are known to have originated, and which continue to subsist, in
 force or violence alone? On this foundation it is admitted, that
 no conventional right can arise. But it is well known in the
 history of nations, that at one time the leader has forced his fol-
 lowers to submission; that at another time the follower has ex-
 torted privilege from his leader; that conditions so obtained have
 been expressed in statute, or gone into customary practice; and
 that the effects of compulsion have thus become articles of a le-
 gal constitution, of which the validity is never questioned by any
 of the parties concerned.

The possibility of such a case has been already stated, in confi-
 dering custom as one of the forms in which conventional obliga-
 tions

tions arise. A condition, at first imposed by force may be such, it was observed, as that men shall be reconciled to it, continue to observe it willingly and freely, inasmuch, that a person conforming to it, on his own part, has the most reasonable expectations of a suitable return in the conduct of others.

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This reasoning, however, will not apply, where any party in society assumes to itself an advantage, or subjects any other to inconvenience of such a nature, as that, although compliance may continue to be forced; yet the sufferer is not reconciled to his condition, nor ever willingly consents to the observance of it. He does no more than he is forced to do; and the violence to which he submits, in every subsequent period of a mere imposition, has the same character of usurpation which it had at the first. Such, no doubt, is the character of despotical tyranny, by whatever party it be assumed, or exerted in discretionary acts of injustice or cruelty, over the persons and properties of other men.

Under this title of continued usurpation, we have already stated the claims of a master, respecting his supposed property in the person of a slave; a claim which, we observed, cannot be founded on any principle of justice acknowledged in the law of nature.

A people, in the same manner, from considerations of danger, may submit to the claims of tyranny, whether usurped by the leader of a military band, or by the majority of a disorderly people, and they may acquiesce in one species of evil from the apprehension of a worse; but such government, whether of long or of short duration, we may observe, in answer to any of the questions now or formerly stated, is not founded in any maxim of right whatever. The

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in return for what they are engaged to perform, they accept of unequal conditions. The terms may be unequally expedient; unequally favourable to any of the parties, or to human nature in general. They may have been suggested by the relation in which parties were occasionally placed, as when the prerogatives of monarchy or aristocracy arose by degrees from the continued distinction of families, and the advantage of hereditary possession.

The terms to which some of the parties submit may have even been imposed by actual force; but in all communities, so far as a right to enforce the performance of public service is supposed, we must be able to derive this right, either from the original principle of self defence, or from the principle of contract, on which alone one human creature is bound or may be forced to serve another.

It may be asked, then, on what principle of justice are we to rest the exercise of compulsory law, in the case of governments which are known to have originated, and which continue to subsist, in force or violence alone? On this foundation it is admitted, that no conventional right can arise. But it is well known in the history of nations, that at one time the leader has forced his followers to submission; that at another time the follower has extorted privilege from his leader; that conditions so obtained have been expressed in statute, or gone into customary practice; and that the effects of compulsion have thus become articles of a legal constitution, of which the validity is never questioned by any of the parties concerned.

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principles of human nature, however long stifled by violence, are ever repugnant to such usurpations; and, like the force of a spring wound up, still exert a pressure against the power that restrains them. Hence, in perfect consistence with natural justice, though not always with prudence or expedience, we may vindicate the sudden or gradual reform of abuses, which for ages may have possessed in appearance the authority of law and political institution.

When we look back to the origin of government, as there is no where an original right of one person to command another, except so far as is necessary to restrain him from harm, we have recourse to convention as the only principle upon which a right to command can accrue to one, or an obligation to obey can be incurred by another.

Prior to such convention, we say, *that sovereignty is lodged in the multitude*; but, when we bring these words to the test of any rational application, they amount to no more than this, that, prior to convention, every one has a right to dispose of himself, so far as is consistent with the safety of others: And that the multitude have this right, because made up of individuals, each of whom is possessed of it; but, in what form the multitude is to exercise it, as a collective body, must depend on agreement to which individuals assent. Prior to convention, the majority has not any right to command the minority, more than any one individual has to command another.

In the abstract decisions of natural law, respecting the obligation of reciprocal contracts, the failure of one party dissolves the obligation of another. So far, the matter is adjusted, in words even between the sovereign and subject. In practice,

too, the sovereign has a ready provision made to enforce the rights of government against the refractory subject, and the rights of one individual against the wrongs of another; but, when the prerogatives which are given for protection, are employed to oppress, what new power can be found to redress the grievance? It is necessary, perhaps, that law should be silent on this head, or take its precautions in wise limitations of government rather than propose to resist its abuse.

This is accordingly the great problem of political wisdom, and a principal test of national felicity: But after all that can be contrived, or deliberately thought of, for this purpose, something must be left to the powerful instincts of nature. When the multitude, whose interests so much it is to have a settled government, tear down the power by which themselves are protected, we must suppose that they are either seized with madness, or that by wrongs they are driven to despair. In either case, maxims of science and reason, or principles of justice are inculcated in vain. The reasoner is every where surrounded with precipices. If he maintain, that the people, in every case, should obey, he delivers over the subject to be oppressed and injured at discretion.

If he admit that the people, in any case, may resist; as there is none but the party himself to judge of the case, all government will seem to be held at the discretion of those who ought to obey it.

So far are we from being able to state any speculative or abstract position that may not be abused. And so far are we left to the powerful instincts of nature, for our direction in matters of the greatest moment. When the storm threatens, the benighted traveller will take shelter wherever he can find it; and, when the roof cracks over his head, he will fly from under it into the

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midst of the storm. He need not recur to any maxim of law for this purpose: The power of necessity is superior to law; and the instinct of nature drives to its end, with a force which speculative maxims can neither withstand nor direct.

Attempts to find any regular counterpoise to the weight of despotism, when every ordinary form is warped to the purpose of injustice, have perplexed the most ingenious minds, or sometimes suggested a doctrine which can scarcely be applied beyond the form of words in which it is stated. That, as power originates with the multitude, that is, with the individuals of whom the multitude is composed, they have a right to reclaim it, wherever it is abused; or, if they are bound by the terms of a political contract, to submit to government; these terms are reciprocal, and the contract may be broken of either side: If on that of the sovereign, the power is again that of the multitude, and may be recalled.

Such maxims in speculation cost nothing but the words in which to express them; but, in practice, we must remember, that, as the multitude never can be assembled, this maxim in effect puts the sword in the hands of every individual, to employ it for himself. And the fate of mankind, in such instances, must depend on what we term accident, or the character of those who gain the ascendant, or are able to prescribe new forms of proceeding, after numbers are tired of the disorders which have attended the suspension of the old.

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Of the Case of Nations.

THE human species, though disposed to associate, is disposed to separation also. It is ever found in divisions and compartments, under the denomination of families, tribes, nations, or hordes. And of these the very least are rarely, without compulsion, or some urgent considerations of safety or expedience, made to coalesce in greater numbers, or, beyond the ties of acquaintance or consanguinity, submit to act under any common direction.

There is, however, in the nature of things, sufficient provision made to assemble the species, or to form the combination of indefinite numbers.

Men are, by their dispositions and their faculties, qualified to make the necessary arrangements for the conduct of society however enlarged. And, however reluctant in every successive step, they actually pass over the bounds of personal acquaintance or

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personal relation and numbers, however unknown to one another, suffer themselves to be formed into nations and empires of the greatest extent.

But, with respect to the objects of our present discussion, *any separate company or society of men acting under a common direction*, may be termed a *nation*: For any plurality of men so united, in the language of lawyers, is an artificial person, having power to act, and rights to defend.

In the intercourse of separate nations there being no government or common magistrate to whom they are subject, their case is, or may be nearly the same with that which was supposed in a preceding section under the relation of parties *strangers* and *unconnected*. They are subject to the law of nature alone, however it may be modified by special conventions, and the law of nature for this reason is also termed the law of nations. In their differences or disagreements they may appeal to the judgement of neutral powers; but if a difference is not otherwise removed, they may have recourse to *war* and the decision of *arms*.

The law of nations, which proceeds upon the supposition of peace when there is no existing offence, proceeds upon the supposition of war when differences arise that cannot be otherwise reconciled; and is therefore, relatively to such occasions, termed also the law of peace and of war.

The last of these titles is that under which the learned Grotius has treated of the law of nature; and persons who have recourse to this author will have occasion to select from his redundancy what is necessary rather than to seek for additional information on the subject. Possessed of the just principle of compulsory law,
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he has applied it in a most ample detail, but so intermixed with quotations from the custom and practice of different ages, with considerations of duty, as well as right; that his work becomes a system of ethics, and the history of opinions and customs, rather than a simple deduction and application of the principles of compulsory law. His quotations, indeed, are interesting, so far as we are concerned to know what men and nations have thought and practised, on the subject of their mutual obligations and rights; although their opinions are not of sufficient authority in establishing the principles, or in directing the applications of justice.

The most admired nations of antiquity were erroneous in their doctrines, and unfortunate in their practices relating to this important subject. In war, the hostilities they practised were often unnecessarily destructive; and the servitude to which they destined their captives was altogether unfounded on any principle of justice. So that, what we have to learn from the example they have set in these particulars, is rather what we ought to avoid, than what we may imitate or quote as authority in decisions of natural law.

We are, in this respect, certainly more happy in modern times. War is made with little national animosity, and battles are fought without any personal exasperation of those who are engaged: So that parties are, almost in the very heat of a contest, ready to listen to the dictates of humanity or reason; and there is no branch of practical justice, which we may recommend with more hopes of success, than that which restrains nations at war, from unnecessary severities against one another.

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The artificial persons, of whom we are now to treat, considered internally, or in respect to their constituent members, consist of fellow citizens, magistrates, and subjects: Considered externally, or in respect of one nation to another, they have their separate rights, whether original or acquired; may avail themselves of such rights; and guard them, by such means as are in their power, against any species of infringement or wrong.

Among the rights of nations, acquired or adventitious, may be reckoned the stipulations of treaty, or the conditions of acknowledged custom. These several articles of right, every nation lies under an obligation to observe, respecting its neighbour, and is entitled to maintain respecting itself. In their disputes, they may have recourse to persuasion or reason; but, if reason should fail, their final resort is to stratagem or force.

Such is the state of war between nations; a state in which it is allowed, that former conventions cease to be binding, and that a nation aggrieved may avail itself of every means in its power to obtain redress; but, if the grounds of war be lawful, on the side of the one party, they must be unlawful on the part of the other; and all that we say, concerning the rights of war, in the application of force, is true only upon the supposition that the grounds of the war itself are just: Insomuch that, in stating the maxims of law, on this subject, we endeavour to express only the rights of those who are entitled to plead the justice of their cause.

Wars may originate in *rapacity*, *emulation*, or *malice*, in *error* or *misapprehension of right*; they may be of indefinite continuance, or even form the ordinary state of contiguous nations. The fact
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in these respects, is matter of history, and admits of indefinite variations; but we are, in this place, to consider merely upon what supposition the act of hostility, in any one nation, may be just; to what extent lawful hostilities may be carried, or within what limits they are circumscribed, even to nations who are entitled to use them in the highest degree: But, before we proceed to this principal object of disquisition, it is proper to consider questions which relate particularly to the case of nations, as they are, in their manner of acting or suffering, distinguished from single men.

As the persons of whom we are now to treat, include a plurality of individuals, having each a principle of will and activity centered in himself, as well as a common cause, in which the members composing the community may jointly act, or suffer in a body; two principal questions may arise concerning them: First, what actions, proceeding from the members of a community, are to be considered as acts of the community itself? And, secondly, In whose person may the community be supposed to receive an injury; and from whom, in case of an injury received, may the community exact reparation?

To the first question, we may answer, That the sovereign of the state, of whatever description, whether a monarch or national assembly, is ever supposed to act for the community, and his actions are ever chargeable as actions of that body of which he is the head. In his title of sovereignty is implied a general substitution of his acts, for acts of that nation, of which the supreme direction is committed to him. To this we may add, that the action of any individual, if employed by the sovereign, or commis-

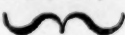
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fioned by the public so to act, or if generally understood to act for his country, will also involve, as a party in all his proceedings, the community to which he belongs.

But, as private citizens may offend against the peace of their own country, as well as against that of a foreign nation, states are not answerable for the offence of particular subjects, farther than they previously authorise their conduct, or avow and protect the offender after the fact. Thus, pirates committing depredations on the high seas, are considered as private criminals, and amenable to the penal laws of their own country, whilst letters of marque, or private ships of war, authorised by public commission, or publicly received into port with their prizes, and protected in the use of them, are justly considered as involving their country in the hostilities they have committed, whether *unlawful* or *justly provoked*.

To the second question, we may answer, That a nation may receive an injury in the person or effects of any citizen: That, in the case of wrongs so received, the injured party may exact reparation, and make reprisals on the person or effects of any subject or member of the injurious nation: And, in respect to both questions, it is evident, that as a nation may be chargeable with a wrong committed by any of its members, whether authorised or merely protected, so the injurious nation may be coerced or forced to make reparation by means that immediately affect the private interest of any of its citizens, as well as by means that affect the community at large; inasmuch, that the law of defence, in its application to the case of nations, will bear, that a community injured, whether in any of its public interests, or in the person

person of any of its members, has a just claim to redress, and may make reprisals on the public, or on the persons and effects of any or all the members of the offending nation.

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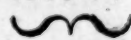
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AS national councils are composed of members differing in their opinions and dispositions; and often fluctuating in their resolutions, according to the influence of contending parties, communities cannot be known to one another, as individuals are known, under any permanent character of tried affection and fidelity. Nations are, therefore, almost in every instance, mutual objects of jealousy and distrust; and must think themselves safe so far only, as they are severally in condition to maintain their respective rights. They must keep a watchful eye on the powers by which they may be annoyed from abroad, no less than attend to the means of defence with which they are furnished at home. Their independence must cease to exist, the moment it is held at the discretion of any foreign power: what a neighbour, therefore, is about to gain, may be to them no less a subject of alarm, than what they themselves are about to lose; and a war may be justly undertaken,

taken, by one state, to check the dangerous progress of another; as well as to make any other provision necessary to its own preservation.

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This may render the question of right and wrong between nations extremely complicated, and suspend or perplex the decisions of justice respecting the cause of a war.

In cases of manifest aggression the right of nations, like that of individuals, to defend themselves is obvious, and injustice in the first step of the war communicates a like character of wrong to every succeeding operation in the conduct of it; but in questions of mere caution or distrust, it is difficult to determine how far one nation may justly oppose the progress of another, and in doing so be supposed to act on principles of mere defence; or at what precise point they may be said to act offensively, and to become aggressors in any quarrel that may arise between them.

The Romans may have been vindicated in requiring the Carthaginians to evacuate Sicily and Sardinia, but not in taking possession themselves of those islands, much less afterwards in requiring the Carthaginians to remove their city to an inconvenient distance from the sea.

In questions of this kind men of the greatest integrity may be partial to their own country, and such is the force with which nature has directed rival nations to pull against one another, that it would be dangerous in the councils of either to effect an impartial part; while an enemy is striking, the sword of a friend must not be held in suspense.

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In the quarrels of nations, therefore, much allowance is to be made for the mistake or misapprehension of parties, and even for the caution with which it is proper, in national councils, to guard against the claims of a rival, even if he should appear to be supported by justice.]

If one nation employ force in support of its claims, however just, the nation attacked is entitled to resist every attempt to reduce it under the power of another; and is not safe, even in making a just concession, while its powers of defending itself are brought into hazard.

For these reasons, we may wave the question of justice, in the cause of a war, as depending on the actual circumstances of the particular case, and consider nations, acting without guile or premeditated malice of either side, as entitled to the privileges of a fair defence.

The means of defence were, in a former section, referred to three separate titles, *persuasion*, *stratagem*, and *force*.

The first, it was said, may be employed among friends, and in obtaining a favour, as well as in repelling an injury. In cases where it may be used with success, or where it may be safe to warn an enemy of a claim, that may be supported by force against him, it is no doubt required, that proper representations should be made, as the least hurtful means that can be employed in urging a claim of right.

The Romans, for the most part, by previous complaint and requisition of their right, proposed to sanctify their cause, and to  
I give

give at least an appearance of justice to the hostilities which they were about to commence. The manifesto and declaration of war, which generally precedes hostilities in modern Europe, may be practised with the same effect; but they are not strictly required by the law of nature, in every case whatever. A nation that has taken the advantage of surprise, in committing an injury, cannot complain if the same advantage be taken of itself in making reprisals.

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Declarations may operate merely as a warning to put the injurious party on his guard, and enable him the better to persist in the wrong he has done, a supposition on which the practice is not at all necessary, or derivable from any principle of natural justice.

Among nations, however, like those of Europe, in which the subjects of different states are involved together in commercial connexions, and though innocent of any public wrong, are so much exposed to suffer by the errors of those who govern their respective countries, it is at least humane, if not in strict law required, that a certain warning of their danger should precede the actual hostilities by which they are exposed to suffer, and of the causes of which they are perfectly innocent.

This consideration, it is hoped, may long recommend the practice of declaring war before the actual commencement of hostilities, among the modern nations of Europe, who, indeed, by the continuance of it, and by custom, have given the expectation of it in some measure the authority of convention or compact.

*Stratagem*

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*Stratagem*, implying some species of *deception*, is more the resort of an enemy than of a friend. It may be employed in misleading the injurious from his aim, or in obtaining from him concessions which he might not otherwise be willing to make.

On this subject, we have already considered the scruples that may arise respecting the use of *deception*, and the preference which the *brave* may give to the use of open force, even in obtaining redress of their wrongs; but we did not find, that the injurious can take any just exception to the use of *stratagem*, or complain that he is *deceived* when the effect is merely to counteract the wrong he commits. There is, however, one form in which deception is reprobated by mankind in general, even in the midst of hostilities, and under the utmost animosity of a national contest.

Although it be allowed to mislead an enemy by false appearances, and even by false informations, it is not allowed to enter into illusive treaties, or to stipulate articles for the sake of an advantage to be gained by a subsequent breach of faith.

It is allowed that hostilities cancel the obligation of preceding conventions, but not the obligation of treaties that may be entered into after commencement of a war. Hence the sacred regard that is paid to cartels, respecting the treatment or exchange of prisoners, the capitulations or treaties of surrender which take place in the midst of military operations, the quarter granted to an enemy who lays down his arms, or the freedom that is given to a prisoner, upon his parole of honour not to serve until he is fairly exchanged.

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In all these instances, the faith plighted, though even to an enemy, and under the operation of force, is held, by the general consent of all civilized nations, to be sacred in the highest degree. The obligation, though possibly not founded in the principle of strict law, certainly rests on a principle of humanity, absolutely necessary to the welfare of mankind, as without it, the calamities of war, once begun, could scarcely ever be brought to an end. Peace itself rests upon the faith of a treaty concluded, while nations were yet at war; and, if it were admitted that such treaties could be entered into, and concluded merely to deceive an enemy, and draw him into a snare, it is evident, that the only means left to mankind, by which to stop the issues of blood, without the final extermination of an enemy, would be cut off, and two nations at war would be obliged to persist in hostilities to the utter destruction of one or the other.

On this ground, breach of faith, even during war, is reprobated among civilized nations; and indeed, the advantage that might be derived from it, in any particular instance, would be more than counterbalanced by the general distrust which the faithless would incur, in cases where it might be their interest to have credit given to their declarations or professions.

*Force* is the ordinary and ultimate resort of nations who cannot settle their differences upon amicable terms. But, even in this last resort, the law of nature, we have observed, directs a choice to be made of such means, as being effectual, are least hurtful to the parties against whom they are employed. The effect to be aimed at is the redress of a wrong; and any harm done, even to

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an enemy, beyond what is necessary to this effect, we have observed, is itself a wrong, and by the law of nature forbidden.

In applying this maxim to the case of nations at war, or in determining what may be lawful in the choice of hostilities, we are to consider the object in view, and the state into which it is proposed to reduce an injurious party, in order to obtain the ends of justice.

Whatever may have been the subject in contest, the immediate object of hostilities employed by either party, is to reduce an antagonist to a state of concession, so that he may no longer resist what is claimed as a right. This is the situation into which one party is reduced by a defeat; and the advantage gained by it accrues to the other, by having vanquished his enemy.

The first or immediate object of military operations, then, being to obtain the victory, a second is, to employ the advantage gained, so as to preserve, secure, or recover the right which was originally in question. And the state of war between nations may be divided into two periods; the first, that which precedes; the second, that which comes after the victory. In the first period, parties are still contending; in the second, one or other is in condition to enforce his demands, or both, tired of the contest, wish for an accommodation.

With respect to the first period, or during the contest of parties, it is evident, that as hostilities are lawful only in preserving a right, or in obtaining reparation of a wrong; so, in the choice of hostilities, such only are to be deemed lawful as are necessary to obtain the victory.

This maxim in speculation is abundantly clear, but in practice it is often difficult to apply it; for, while one party resists or presses with all his force, and takes every opportunity to strengthen himself and to weaken his antagonist, the other party will think himself justified in employing every means in his power to counteract operations, of which he knows not the precise extent.

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Contending nations, for the most part, thus urged by an apprehension of what an enemy may be devising against them, proceed at once to extremities; use weapons and engines the most destructive, and employ means the most likely to reduce their enemy to submission, without any scrupulous enquiry into the degree in which such means may be necessary, provided they are likely to be effectual for obtaining the purpose to which they are employed.

It is happy in the practice of nations when means of a destructive nature, such as the use of poisoned weapons, infecting the springs or supply of provisions, breach of faith, or any other destructive measures, tending to surprise an enemy, without giving him the option of submission, are so far reprobated, as that neither party thinks of employing them, nor apprehends that they are ever to be employed against himself. In favour of such practice the law of nature is clear and peremptory: That the party attacked ought, if possible, to have open before him the extent of his danger, as that alone may be sufficient to obtain the concession which constitutes the end of the war.

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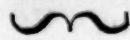
During the period of contest, to whatever extremity an enemy that resists may be urged, it is evident, from the general principle which limits the operations of war to such means as are necessary to obtain the victory, that an enemy who submits or yields, is thereby entitled to quarter. The end of the war, with respect to him, is already obtained; and to refuse quarter, is justly considered amongst civilized nations as an object of detestation and horror.

Prisoners taken in the course of a war are, agreeably to the dictates of natural law, disarmed and secured, that they may not return to strengthen the enemy: But as cruelties practised towards them have not any tendency to procure or to hasten the victory, it is not lawful to withhold subsistence or reasonable accommodation in the manner of treating them.

The expence of subsisting prisoners of war may indeed become an addition to the damage already sustained from an enemy, and may accordingly become a just matter of charge against the party whose wrongs give rise to the contest; but against whomsoever this question may be decided, it is evident, from the general observations already made, relating to the faith that is to be kept even with an enemy, that cartels or treaties of any sort, for the mutual accommodation of prisoners, are matters of strict obligation.

We speak not now of the regard which brave men and virtuous citizens mutually have for one another, though engaged on opposite sides of a national quarrel. This is an article not of strict law, but of personal generosity, of polished manners, or of candour,

dour, honourable for those who observe it rather than matter of right, which may be always exacted by those towards whom it is observed.

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It is a well known maxim in the law of nature, that injurious parties have no right to exact the performance of any promise they may have extorted in pursuance of a wrong previously done. Thus a robber, who has taken a traveller's money on the high way, if he should extort a promise of secrecy, has no right to exact the performance of such promise.

Upon this principle it should seem, that, in the course of a war, engagements contracted with the injurious party are not binding; or do not bestow any right on such injurious party to exact the performance.

Notwithstanding the evidence of this maxim, nations, moved by the consideration of its fatal consequences, have almost universally consented to forego the exceptions of force or injustice otherwise valid, to repel the obligation of treaties entered into during the continuance of a war, and have consented to hold the faith of such treaties equally, if not more sacred than that of convention even between nations at peace. It is on the faith of this consent, that the asperities of war are softened towards individuals, that the prevailing party, on every particular occasion, may refrain from unnecessary severity towards an enemy, may spare the vanquished, and release the captive. Upon the faith of this maxim, even during the animosities of war, a way is kept open for the return of peace; and the party aggrieved, even having an enemy in his power, is prevailed upon to sheathe the sword, and rely upon a promise of that enemy to repair the wrong

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wrong he has done, and to preserve the peace undisturbed for the future.

It is evident, in the abstract point of view, that while parties are at war, it is lawful to assist the innocent; but, that any person giving aid to the guilty, becomes an accomplice in his crime. Upon this principle, parties at war, asserting their claim of right against an enemy, have an equal claim against the auxiliary, or against any nation giving refuge, protection, or support to an enemy; but parties, unconcerned, may repel the attempts which are made to engage them in a quarrel, respecting which they are disposed to preserve their neutrality.

Neither of the parties at war may lawfully seize the effects of a neutral person, in order to employ them against his enemy; but, if the effects of a friend are destined for the use of an enemy, and are such as may enable him the better to carry on the war, they may be lawfully seized.

If an enemy receive protection in the port or fortrefs of a neutral power, he may be lawfully pursued, and forced even in that retreat. With respect to such matters, however, contiguous nations having frequent intercourse, whether in peace or war, by their ordinary practice, give sanction to customs, in some instances unequally agreeable or disagreeable to the original tenets of natural law.

Accordingly, among the modern nations of Europe, the effects of a friend going to an enemy may be seized, if they are such as would enable that enemy the better to carry on the war; and the effects

effects of an enemy may be seized on board the ship of a friend, provided the ship is restored with freight and other expences.

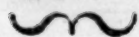
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In the operations of war at land, an enemy may be pursued into the territory, and forced to surrender in the fortrefs of a neutral power; but, in the operations of war by sea, neutral ports are held to be sacred, and the protection they give is extended to some indefinite distance, at which their signals can be understood, or to which guns from the shore may be supposed to reach.

In this distinction, which is made between the liberties that may be taken with the land fortresses and sea ports of an enemy, the rule is no doubt capricious, and the reverse of that which the law of nature seems to inculcate. By the maxims of this law, an injured party may pursue his redress by any means which are consistent with the safety of others who are not concerned in the wrong of which he complains. There is, or may be, evident reason to bar his entrance into the territory of a neutral power, or to bar his laying siege to a fortress in which an enemy may have taken refuge, as this cannot be done without damage to the territory on which he enters, or demolition to the works he would force; but there is no reason why he may not approach the coast or enter the port of a neutral power, and there force his antagonist, by means which no way affect the interest of the neutral party in question. The only probable reason that can be assigned for the origin of this distinction is, that neutral powers are better prepared to keep the peace of their ports against the force of intruders by sea, than they are prepared to keep the peace of their territory against the force of great powers collected to make war on their frontiers; that therefore they urge their right in the one case, and forgo it in the other.

Such

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Such are a few of the principal points to which the law of nature applies, in what we stated as the first period of a war, while parties yet contend for the ascendant or the victory. If the events of the war have been such as incline either or both parties to make the concessions necessary to an accommodation, they are come to the second period, in the sequel of victory, which was supposed to be the first or immediate object of hostilities.

In this state of parties, the victor has acquired a power to enforce his right, but, respecting the cause or subject of the quarrel, does not become vested with any right that did not originally subsist, or that has not arisen in the way of additional claim of compensation for the damage sustained in the course of the war.

The victorious, if his general claim be just, is now in condition to enforce it; he is in condition, also, to enforce compensation for whatever he may have suffered in vindicating his right; and may lawfully require securities, or take precautions for his future safety. But, as the success of arms cannot change wrong into right, and as the innocent is not less entitled to justice, for being unable to resist the violence that is offered to him, any supposed right of conquest, arising from the success of a war, is a mere solecism in language, and the reverse of any just tenet of natural law.

The fortune of war is sometimes favourable to the injurious, and may place either of the parties concerned in possession of advantages which they have not any right to retain, either in virtue of their original claim, in virtue of compensation for damage sustained in the war, or as securities required to their future safety. On these suppositions, conquest can bestow no right; and it is fortunate

tunate in the practice of nations, when, either from a principle of moderation, or from an apprehension that neutral powers might interpose to check the abuse of their advantages, they employ their conquests only to secure themselves in the possession of their rights.

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Among other advantages of civilization and public justice in modern Europe, we have reason to congratulate ourselves upon this, that conquests are seldom undertaken, and acquisitions seldom retained, except upon the ground of some plausible or probable claim, on which the subject in question was originally seized or demanded.



C H A P. V.

OF MORAL ACTION, AND THE CHARACTERISTICS OF A VIRTUOUS AND HAPPY LIFE.

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S E C T I O N I.

*Of Virtue, as distinguishable from the Effects of Compulsory Law.*

IN some such manner, as has been attempted in the two last chapters, we may trace the outlines of jurisprudence or compulsory law from a first principle in nature, as we pursue a series of mathematical theorems from an axiom or definition previously assumed or understood. Our theories, in either case, no way affect the the physical state of things otherwise than they are applicable

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applicable by assumption of circumstances, or by some degree of approximation in the cases which actually take place.

The object of compulsory law is defence; and to obtain this end *force* is perfectly adequate: But the object of morality in general is different: It is to inspire virtuous dispositions, and render that state of the person we would defend not only secure, but otherwise essentially happy.

When the law is thus conceived, as divided into two separate tables; the one containing a prohibition of wrongs, the other requiring positive acts of beneficence, the sanctions are supposed to be distinguishable also, under titles of perfect and imperfect obligation. The use of words is no doubt in some measure arbitrary; but it ought not to be implied in any words we employ, that a rule, merely because it may be enforced, is in any degree more binding than the consideration of what is in itself an article of wisdom, as constituent of good to mankind.

Justice is said to be the object of compulsory law; and it is so, no doubt, in respect to many of its external effects: But, considered as an article of supreme felicity to the person who willingly observes it, justice is no less above the reach of compulsion, than is the whole of that guardian affection, which renders man towards his fellow creatures not only unwilling to be the cause of harm, but active also in yielding the fruits of beneficence. The person who abstains from harm, merely because he may be forced to do so, is in no degree comprehended under any description of virtue, and in respect to the good at which morality aims, may be considered as a wretch and an outcast from mankind.

Force may operate in practice, by presenting evils which deter from iniquity ; but vice itself is a greater evil than any that force can inflict ; and the obligation to humanity and candour, therefore, is as perfect as the fear of evil or the consideration of human felicity can make it. A person who deliberates on the choice of his conduct, will not always find himself more powerfully determined to respect what may be called the right of one fellow creature, than he is to relieve the distress, or cordially to embrace the merits of another \*. An orphan, it is said, was found almost naked, lying on the grave of his parent, of whom he had been recently deprived ; the person who found him, we shall suppose, was passing to an appointment, at which he was about to discharge a debt : But this object fixed his mind ; he employed his money in procuring relief and protection for him ; and his creditor for the time was disappointed. Will any one reprobate this act of humanity, as interfering with a matter of more perfect obligation ? Even the courts of law, as we have had occasion to observe, can admit the extreme necessity of one person as valid to suspend the right of another. Thus, a person about to perish for want of food, is allowed to save himself by recourse to the property of another ; and the plea of humanity is held to be more sacred than that of an absolute and exclusive right. Why should not humanity therefore be enforced ? If it be the primary good incident to human nature, why should it not be obtained by any means the most effectual for this purpose ? There is not, indeed, any reason why it should not be effectually obtained ; and if force could be effectual to inspire benevolence, even

\* Vid. Prix distribués et proposés par la Société Royale d' Agriculture, dans la séance publique tenue à Paris le 23 Decembre, 1791.

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even the sword and the mace should be employed to make men love one another. But benevolence is a modification of will, which no application of force can procure: Even the external effect, if obtained in this manner, would lose the character of virtue. A beneficent action, which, when free, is liberality or charity on the part of those who practise it, would, under the application of force, be changed into extortion or robbery on the part of those who should so exact the performance of it for their own advantage. To bestow the felicity of a willing mind, force is not only inadequate, but, by alienating the affections of those against whom it is employed, would have a contrary tendency.

All that the magistrate can do in this matter is, by shutting the door to disorder and vice, to endeavour to stifle the ill dispositions of men; and by securing the paths of integrity, and marking them with considerations of distinction and honour, to facilitate and encourage the choice of virtue, and to give scope to the best dispositions which nature has furnished, or which the ingenuous mind is able to cultivate in itself.

We are now to consider not the applications of force, but the felicity of a willing mind. What is the best and most happy condition of human life? What most agreeable to the law of God and the general sense of men ingenuous and well informed? The considerations which lead to this choice, if benevolence be supposed to need any excitement to its own pursuits, have been already enumerated under the titles of *conscience*, *religion*, and *public repute*. But these may not be sufficient without all the other accompaniments of a well informed, as well as benevolent mind.

*Conscience*, indeed, for the most part will approve the acts of  
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beneficence

beneficence and reprobate the effects of malice: But prejudice, on particular occasions, may assume the name of conscience. And men are not always virtuous in doing what they themselves conceive to be right. A person who has incurred a mischievous error, may have his own approbation, while he is in reality an object of just detestation and horror; and the merit he assumes to himself in the face of better information, argues a mind depraved at once in its judgements as well as affections. Even the furious zealot who is pleased to inculcate his doctrines under terrors of the rack and the fire, may think that he is active in the cause of truth, or in propagating a faith which is necessary to the salvation of mankind. Or the Mussleman, who thinks it a duty, when the standard of Mahomet is erected, to plunge his dagger in the breast of any Jew or Christian that is within his reach, may flatter himself that he has the sanction of conscience for the outrage he commits on humanity and justice.

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Under the title of *public repute*, or a deference to the sense of mankind, we may in general be directed to a harmless and beneficent course of life; but not always securely to this effect. Vain glory and mean popularity are sometimes grafted on this principle, and as often mislead the conduct of men, or embitter the moments of life with jealousy or disappointment. In private the silence of fame is often the best repute, as at Athens, that woman was said to merit the highest praise of whom no rumour either good or bad ever went abroad \*. And to the father of a family also, who, by the constitution of his country, is neither a

statesman

\* Vid. Thucydides lib. ii. c. 45. Rex vixit male qui natus moriensque fefellit.

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statesman nor a warrior, nor placed in any public profession, the silence of fame is itself a laudable distinction \*.

Under the title of *religion* we admire and love the conceivable perfections of the supreme Being : But bigotry and superstition may assume the name of religion, and substitute acts of oppression and cruelty towards men for acts of duty towards God.

We must not therefore trust to whatever may bear the name of religion or conscience, or to what may have a temporary vogue in the world for our direction in the paths of a just and manly virtue. Every advantage of a benevolent mind and well informed understanding are conducive to this purpose, and the characteristics of a virtuous life, frequently revolved in the mind may have a salutary tendency to the same effect. To delineate the features of virtue is an agreeable task, and, when happily performed, is favourably received by mankind. Even they who in practice are least observant of the models presented to them, nevertheless bear witness to the truth of an observation which Cicero has quoted from Plato. *That if virtue could be rendered manifest to the eyes of men, it would excite the*

\* Nec vixit male qui natus moriensque fefellit.

Upon this idea of a virtue retired in modest silence and indifference to fame, there is wanting for the instruction of mankind, a biographical collection containing examples of men who have been able to fill up the years of a happy life with occupations and duties which gave continual satisfaction, without any wish to extend their celebrity. It might be difficult indeed to collect materials for such a work, and few are enough lovers of mankind and indifferent to fame to be qualified for the execution of it. If Mr Addison had betaken himself to this task, his country that owes him so much would have owed him still more than for any of his actual services.

*the most wonderful passion of love and desire of wisdom* \*. Its lessons are happily received through the channels of ingenuous literature and the fine arts, no less than in the way of formal instruction. Of the first, there are many proofs in the works of distinguished genius, whether, ancient or modern in which qualifications which serve to accomplish the author serve also to instruct the world \*. Of the other, there are also valuable remains of antiquity in the Memorabilia of Socrates; the Ethics of Aristotle; the offices of Cicero; and still more in the remains of Epictetus and Marcus Aurelius. In our own language also there are many valuable compositions on the subject. Some on that of manners, and the ordinary concerns of human life, having appeared periodically at different times of this century, still continue to be read with more than the pleasure of novelty. Others that have been delivered by persons in holy orders, and in the discharge of their sacred functions. With these, in any instance, I do not compete: But in my attempt to touch this copious subject, of which I cannot by any means hope to fill up the detail; I am ambitious to show that there is a science of manners or of Ethics, no less than of Jurisprudence or of Politics, and for this purpose

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would

\* Forman quidem ipsam, Marce fili; & tanquam faciem honesti vides, quæ, si oculis cerneretur, mirabiles amores, ut ait Plato, excitaret sapientiæ, *Cic. de Officiis*, lib. i. c. 5.

\* Scribendi recte sapere est et principium et fons.

Rem tibi Socraticæ poterunt ostendere chartæ,  
Verbaque provisam rem non invita sequentur.  
Qui didicit patriæ quid debeat et quid amicis;  
Quo sit amore parens, quo frater amandus et hospes;  
Quod sit conscripti, quod judicis officium, quæ  
Partes in bellum missi; ducis ille profecto  
Redere personæ scit convenientia cuique.

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would willingly point out a method, by which to derive the offices or duties of a virtuous life from principles at once so comprehensive and unquestionably evident, as to enable every person to fill up the detail for himself.

SECTION

## S E C T I O N II.

*Of the Occasions and Characters of Human Action in general.*

WE have laboured in former sections, to have the characters, whether good qualities, or defects of mind distinctly conceived, as constituting, on the one hand, the happiness and good, or, on the other, the misery and ill, of intelligent being. In these characters of the mind subsists the distinction of good and evil. Corporeal actions are distinguished only as their effects and external expressions.

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So much to be observed is perhaps necessary to a right understanding of the subject. At the same time, it must be admitted, that any individual mind, however possessed of its highest perfections, if, without means of communication with other minds, would be no more than a single and separate existence, not a member in any community of beings; not active to any beneficent purpose; nor even having any scope for the exercise of its best dispositions and faculties.

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The Author of nature, so far as we know, has not so disjoined individuals from one another in any part of his works. There is an affinity and combination of minds, as well as of material substances. The chain of communication extends from one to many, from species to species, and even from world to world, throughout the intellectual as well as material system of nature. In our limited views of the intellectual world, there is a medium, through which individuals give and receive intimation of their meaning, and on which they jointly work with mutual dispositions to concert or opposition. How this chain of communication may be formed, betwixt intelligent beings different from man, or how it may be supplied in a state any way different from the present, we know not; but, in the present condition of man's intelligent being, his communication with other minds is effected by means of his animal frame. Through this medium, minds mutually know and are known to one another. Among the subjects that affect the animal nature, they find constituents of interest or self preservation, on which they are industrious. They encounter with one another in the same or opposite pursuits, and find materials that may be employed as means of beneficence or harm, of co-operation and opposition, according as they are disposed to act the part of friends or of enemies.

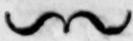
We have already indulged the idea, that this scene of animal life, is but the opening of a boundless course, in which man is destined to pursue the objects of his intelligent nature: By means of animal perceptions, the first rays of information or knowledge are made to dawn upon his soul; he is made to perceive the world in which he is a part; and, in the edifice of nature, in which he is lodged

lodged is not, like the other animals, merely an indweller; but is partly let into the reason of its contrivance, not merely urged by instinct, but qualified to deliberate on the choice of his actions, whether in obtaining a convenience to himself, or in procuring a benefit to his fellow creatures.

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These occasions of action, making so material an article in the history of the human species, have been already stated; and the pursuits or exertions of mind, to which they give rise, have been enumerated under the respective titles of arts, *commercial*, *political*, and *intellectual*. The first are employed on subjects required to supply the wants and necessities of animal life; the second relate to the order of society, or the relations of men acting in collective bodies; and the third relate to the exercises and attainments of mind, in the use and improvement of its distinctive powers.

When, in the sequel of this statement, we consider how far the intellectual powers of man are short of the degrees which he himself is able to conceive, we were naturally led to suppose, that there are, in the universe of God, much higher forms of intelligence than his. At the same time, we cannot but think, that even he is of no mean rank in the scale of being; for to him is allotted one of the primary planets, and what, under this title, may be reckoned a seventh part of this solar or planetary world. Here, then, is a mighty apparatus made for his accommodation; and our best way of reconciling so much consequence in the system of nature, with so much littleness in the present attainments of man, is, by supposing this terrestrial sphere which he occupies, and probably many such, to be nurseries for the great world of intelligent being: And in this supposition we may learn to respect the present scene of things, however seemingly frivolous, as a prelude to

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the higher parts of a drama, for which men are destined to prepare in passing through the offices, employments, and duties of the present life.

Under one or other of the titles now mentioned, and formerly treated more at large, we may suppose the present occasions of human action to be comprehended; and, if it be good for man to act his part, it is certainly required, in constituting that good, that the occasions of action should be attended to, and well understood. The external situations of men may be varied indefinitely, by the unequal possession of things conducive to convenience or self preservation, or by the unequal distribution of materials on which the powers of wisdom and goodness may be employed; and we may know that happiness or misery is not proportioned to the measure in which such things are possessed, but to the right or wrong use of them, and to the wisdom or folly of the part which is acted with respect to them. Yet, as the work is not likely to be well executed where the materials are neglected, philosophy, which bids us attend to our duty, as the principal object in human life, has no tendency to make us overlook or neglect the occasions to which the propriety of our conduct relates.

In general it is supposed, that means are subordinate to the end for which they are employed; and from this rule it should follow, that the industry and ingenuity, the sobriety and fortitude, practised by a man in the pursuits of fortune; that the benevolent affection, exercised in acts of liberality or charity, should be of inferior consideration to the wealth which he means to acquire in the one case, or to the favour and relief which he means to bestow in the other. In the estimate of human concerns, however

ever, the contrary is true. Where human virtue is the means, and external advantage the end, we know from experience, that the means are of more value than the end, and constitute the happiness of human life, in whatever measure the end be obtained, or even where in the event it is frustrated. To this purpose, it is observed by Cato, in Cicero's dialogue concerning the supreme good, that, although human action is directed to certain external ends of accommodation or safety, which he enumerates, yet that, from the action itself there results a consideration of much greater moment, than the end or purpose to which the action itself was directed \*. In the productions of men, materials are of less value than the ingenious design and execution of the work. And in acts of good will to mankind, the external effect is inferior to the affection of a generous and beneficent heart.

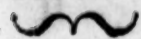
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The great object of reason, however, in these observations, is not to detach men from a proper attention to the occasions of action, but to qualify them, however the scenes may differ, to act their part with propriety, or to prevent them from thinking that their good consists in mere situation, or in the materials they employ, and not in the nature of the part which they themselves are free to act, in every situation, and with respect to any material.

To few it is left to determine what course of life they shall pursue. The conduct of patrimonial interests, the cares of family, the duties of public or private station, are to most men sufficient to mark the line or direction in which they are to pass through

\* Cicero de Finibus, lib. iii. cap. 6.

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through life. But, to bear the characters of an ingenuous or happy mind, it is not necessary that the situation or line of life should be specifically adapted. This blessing is attainable in every situation, and is the gift of God to every rational creature who knows how to discharge the present duties of his station with diligence, benignity, and courage.

Different institutions of society engage their members in different pursuits. Under some institutions, it is the prevailing object of passion to become rich; in others, to obtain precedence and titles, or to make a show of rank and fortune derived from ancestors. In others, it is the prevailing passion to be distinguished in the classes of statesmen, of warriors, or orators. But in the scene of human life, be it constituted by whatever direction of public opinion, the wise, the ingenuous, and the beneficent will still find their place; and it were dangerous or absurd to waste, in vain expostulations, the spirit, which ought to operate in the best use of our situation, whatever it may be.

In a little village of the Alps, the attendants of Cæsar could perceive that even there, as well as at Rome, there might be parties and a contest for rank: And he himself could there also apprehend the usual objects of his ambition, superiority of power, in respect to which, he would rather be the *first in that village* than the *second at Rome*. In every department of human life, if there be a vice to be shunned, there is also a virtue to be practised; and what every man is chiefly concerned to know, is that, even in his village, or in his place, there is occasion to exercise the character of a noble and ingenuous mind, as well as a danger to be incurred on the side of folly and of vice.

Philosophers

Philosophers would variously teach us ; some to refer our actions, and to limit our views, to private or separate gratifications ; to court an exemption from care and solicitude on the concerns of other men ; and to fill up the moments of life with the least possible trouble or avocation from our own personal state and enjoyments. But nature seems to require that we seek for the interesting scenes of human life ; that we consider our own, and the cause of mankind, as common ; that we consider our sociable dispositions as the better part of ourselves ; and that we willingly seize the occasions which exercise the powers of a wise and beneficent mind.

Reason, pretended or real, may thus dispose or indispose us for the scene which providence has opened before us. But nature has provided, that the individual can no where shake himself loose of his species, and that if he does not bear his part in society as a friend, he must suffer as an enemy.

The vessel, on board of which all men are embarked, must be managed and wrought by the common skill and labour of the crew, and none can be indulged in exemptions, which, if all were to plead and obtain, would end in the ruin and destruction of the whole. " I would reap," says Aristippus, " what other people sow, I would enjoy my pleasures in a city which others have built, and labour to preserve". This considered as the choice of an individual may be cunning ; but offered as a scheme of philosophy for mankind, is more absurd than language can express. If the slothful mariner, in his wisdom, fly from the helm, or shrink from his watch on the deck, what is to become of the vessel in which he is embarked, and in which the scene of his

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private enjoyments, or interests, however real, is likely upon this plan to be of short continuance.

Animals are observed to have their native propensities, from which there results a distinctive aspect and manner of life. This observation will apply no less to man. He too is distinguished from his birth. He is destined to know himself, to observe and to chuse among the ends of pursuit, and his aspect is different according to the choice he has made, and according to the ability or temper with which he persists in that choice.

Every situation may try the skill of the person who is placed in it; may try his disposition to beneficence, or his neglect of other men, his fortitude and his application to objects that merit the principal share of his attention. *Skill, disposition, application, and force*, are accordingly the qualifications to which we referred, as requisites in the formation of an active character. And, with a view to which, morality has been divided into a corresponding number of parts or branches, which are termed the Cardinal Virtues, to wit, *prudence or wisdom, goodness or justice*; temperance and *fortitude*. This arrangement of the subject is familiar in common language, as well as in the schools of morality, and points out a method in which we may continue to pursue what remains to be observed on the external characteristics of a virtuous life.

*Wisdom* is the virtue or excellence of the understanding, by which a person is skilful in the choice of his objects, and in the means of obtaining his end.

*Goodness* is the excellence or virtue of a good disposition, from which men venerate the rights and feel for the sufferings of their fellow

fellow creatures, from which they are averse to be the authors of harm, from which they are ever faithful and true to the expectations they have raised, and ever ready, by acts of kindness and good will, to prevent even the wishes of those who by nature or accident are made to depend on their will.

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*Temperance* is the proper choice of our pursuits and applications ; or such a measurement and regulation of inferior gratifications and desires as is consistent with the higher and better occupations of our rational nature.

*Fortitude* is that strength of mind which enables the virtuous man to withstand opposition, to contend with difficulty, and to possess himself in the midst of danger. It is the foundation of magnanimity, which, when a person is called upon to perform any of the more arduous duties of life, inspires a courage superior to the consideration of inferior interests or concerns. Its principle in the mind is an essential constituent of happiness; not only as it qualifies men to encounter with ease any real difficulty, distress, or danger, but as it is an antidote to those imaginary fears and mis-apprehensions which constitute weakness, and a principal article of meanness or suffering.

Such being the *cardinal virtues*, forming what we may consider as the first and most general arrangement of the moral duties, we proceed to consider their consequences, or the more particular habits and exertions in which they severally consist. In doing this, the first or most general title in each division will serve as a principle, from which the instructions of moral propriety relating to the several parts may be drawn.

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SECTION

## S E C T I O N III.

*Of the Characteristics of Prudence or Wisdom.*

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WISDOM being a discernment of the ends which we ought to pursue, and of the means most effectual for the attainment of them, it should seem to include every virtue. For, on the sovereign direction of a mind perfectly apprised of its good, and of the manner in which that good is to be secured, we may safely rely for the rectitude and propriety of our conduct in every instance.

Wisdom was accordingly so considered by the antient philosophers; and, in the imaginary description of a wise man, every conceivable perfection of human nature was included.

We are thus disposed, for the most part, to simplify our conceptions, and to seek for some fundamental principle from which, if we secure it, every other requisite will follow; but the reality of any such principle, even in the government of human nature, may

may be doubted. The love of mankind, which we have assumed as the nearest approach to a general principle of virtue, requires the direction of wisdom and the support of courage. Wisdom also requires the reality of a benevolent affection, which even the best discernment of what ought to be done, on particular occasions, cannot supersede.

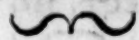
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Among the happiest effects of wisdom, we may reckon the proper direction which a benevolent disposition itself may receive towards the attainment of its end; but if in this, wisdom or prudence is subservient to goodness, the benevolent affections are often the best security that judgement itself shall not err: For they often lead to the genuine point of integrity and honour, when a cold discernment of what is proper for the occasion might fail of its aim.

*Wisdom*, stated as one among the cardinal virtues, refers chiefly to those duties which result from reflection, and which terminate in preserving the state and character of the individual unimpaired. Such are *decency, propriety, modesty, oeconomy, decision, and caution*.

These being the characteristics of prudence, and the external marks of a considerate mind, or the effects of habit acquired, together with experience in the progress of reason, they are among the virtues which the Duke de la Rochefoucault supposes to owe their merit to reflection, and to embellish a character the more for being acquired. But, even here, there is a partiality to natural, parts, of which, under the notion of superior genius or great ability, men court the reputation, even where they incur its neglect or acknowledge its abuse. It is that which is supposed to give to  
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the statesman or warrior his superior lustre; that which elevates the orator, the poet, and fine artist of every description, above the ordinary ranks of men; and we have the folly frequently to estimate a merit which ought to consist in a proper use of our faculties, by the mere possession of a talent, with too little regard to the salutary effects which it ought to produce.

The value of wisdom, however great, is more evident perhaps in its contrast with folly, than when separately stated. "A fool," says La Bruyere, "cannot look, nor stand, nor walk like a man of sense. The contrast thus appears in the most trivial, as well as most important occasions of human life, in every feature of the countenance, and every action and gesture of the body. The fool is mortified in being told of his folly, and feels the imputation of it as a grievous reproach."

What then are these characters. When we attempt to analyse them, the distinction, should appear to arise, on the one hand, from a discernment of what ought to be done, and from a habit of doing it; on the other, from a mistake, or want of discernment of the object, of the occasion, and of the place, or from a habit of being occupied on occasions of serious business with objects of inferior value. Such is the folly of the coxcomb, the vain-glorious, the avaricious, the spendthrift, and the prodigal, the contemptuous, and the proud.

Wisdom is the discernment of what a man ought to wish for himself, for his friend, for his country, and for mankind. And supposing a disposition to act well in all these relations, it is the ability with which he may acquit himself well on the different occasions

occasions to which they give rise. It has, in every person, a particular reference to the conduct of his own affairs. He may, indeed, consider his benevolence, or good will towards others, as one of the most important articles in the predicament of what belongs to himself; but such affections belong more properly to their separate articles of goodness or justice.

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*Decency*, considered apart from every other principle of moral obligation, though an article of wisdom, is that of which the external or physical effects are of least moment to human life. It is directed chiefly to save appearances, and gives evidence of a mind cautious to avoid what is evil, in matters which, either by opinion, custom, or natural sensibility, are rather offensive than hurtful to others. Its rules, therefore, are prohibitory, and its offices sometimes consist in avoiding before others, what, when alone, may be innocent, or perhaps necessary.

There are men, who, under an affectation of being superior to trifles, suffer themselves to trespass on the rules of decency; but offence unnecessarily given to our fellow creatures, whatever be the manner of it, is not a trifle; and the poet has justly observed that "Want of decency is want of sense." The observance of this duty, as it is dictated either by the instincts of nature, or by the custom of our country, is important, as the presence of one man is important to another, and the reception which a person meets in society is important to himself.

The objects of prohibition, which come under this article, might be summed up under three titles, *nudity*, *filth*, and *obscenity*; but of these the boundaries are sufficiently marked in the custom or manners of every nation or age; and to go into any detail with respect to

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to them would be, in some measure to offend against the duty which we mean to enjoin.

*Propriety* is the suitableness of action to the person who acts ; to the occasion ; and to the place : so that, although it comprehends decency, because what is proper is also decent, it proceeds upon a principle yet more extensive and less depending on local apprehensions and customs. Indecency is chargeable only in the presence of others ; impropriety may be incurred by a person when alone, as often as he neglects what is due to himself or to his fellow creature, or as often as he incurs what is unsuitable to the part he has to sustain, either in respect to *rank*, *profession*, or *age*.

There is a propriety, as well as decency, in all the external effects of virtue: In all the effects, for instance of good sense, benevolence, and resolution, these are proper to human nature as such, and constitute the principal graces or recommendations of the human character ; but it is proper to limit our observations on this article of propriety, to particulars which are derived from this consideration alone.

Among the proprieties of high rank, we may reckon the conditions which are peculiarly requisite to preserve respect ; that *reserve* which avoids improper familiarities ; that *candour*, which guards against *petulance*, *contemptuousness*, *affectation*, or *scorn*.

It is proper, that the claim to superior respect should be supported by superior accomplishments of manners and candour ; by a superior steadiness and moderation in all occasional emotions and passions, whether of *sorrow*, *anger*, *mirth*, or *joy*.

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The genuine expressions or effects of respect constitute the proprieties of inferior station, in its relation to that which is superior.

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Respect naturally carries a mixture of good will and affection, which breaks forth in the well regulated plainness of truth, rather than in flattery or continual assent. There is a certain ingenuity required to render a person capable of affection and respect. It begins with giving a dignity to the manners of those who are possessed of it, and its attentions bear the most honourable testimony to the elevation of those towards whom it is directed.

The concessions of the servile are the effects of *baseness*, *interest*, or *fear*, and are proper objects of *distrust*, not of *predilection*, or *favour*.

In the society of ingenuous men, however unequal in point of rank, there is a candour, which, in respect to freedom, in respect to the disposition to oblige, to receive, and to give information, tends to bring the parties on a foot of equality. It is indeed impossible that, in the societies of men, actual advantage of any sort should cease to have its effect; but, in the company of the wise, there is no formal intention to extend, nor any jealous anxiety to support that effect; and the distinctions of rank appear more in the attention of the superior to encourage, and in the inferior not to abuse that freedom of conversation, which constitutes the charm of society.

Professions too have their proprieties, which are ever required, not only in formal and professional appearances, but even in the

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most familiar and unguarded moments of life. This might be illustrated by referring to the sentiments of men respecting the proprieties of character, in different instances; but the example of what is commonly required to the propriety of manner, in those who are vested with holy orders, may be sufficient. While others are indulged in harmless levities, persons of this profession should be at all times not only innocent, but considerate to avoid even the slightest approach to offence.

Among the proprieties of age we may reckon, that diffidence is proper to youth, resolution to manhood, and tranquillity to the last stages of life. The young are yet learning to be men, and ought not to assume the confidence of manhood, until they have laid the foundations on which it may securely rest.

In manhood, it is proper that a person enter on his part with decision and resolution.

In old age, the vivacity with which passions operate in youth or manhood being impaired by the experience or the decline of years, objects appear in their comparative measures of importance; and the deliberate mind of the aged is better prepared to inform and to advise than to act.

*Modesty* seems to be akin to diffidence, and they are sometimes mistaken one for the other; but they are plainly distinct. The decisive and resolute may be modest, but are not diffident.

Modesty is the proper measure of our claim or pretension to consideration or preference relatively to other men. It is a guard

gurat which wisdom sets over the conceptions of personal importance, in which every person apart is apt to assume too much for himself.

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This conceit or conception of importance, when not properly restrained, is, in the language of a neighbouring country, termed *self love* \*. From this motive, the fool is at all hazards inclined to bring himself forward into view, and not only to avail himself of any advantage he may have, but to affect more than is real. He is ready to abate of the candour which he owes to others, while he exceeds in the measure of consideration which he claims for himself.

Modesty is founded in natural disposition, as well as in reflection or reason, and therefore holds a middle place among the different kinds of virtue distinguished in the passage that has been formerly quoted from the Duke de la Rochefoucault. The natural disposition to this virtue, as well as to justice, is benevolence or the love of mankind. Hence men owe to nature their disposition to receive with favour the pretensions of others, and to rejoice at advantages superior to their own; while they learn from experience to guard against the effects of partiality to themselves, and to avoid intruding their own advantages, however real, upon the attention of others.

Self-defence, in the case of an attack, will justify the modest in a fair and manly representation of their rights, but does not authorise unprovoked or unnecessary ostentation of what they possess; of what they have done; or of what they have suffered; much less the affectation of sentiments or qualities by which they

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\* Amour propre.

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would deceive the world into a belief of their own consequence, beyond its real measure or degree.

*Oeconomy* is the proper use of what fortune has bestowed, whether in the fruits of labour or inheritance.

The term is sometimes employed as synonymous with parcimony or frugality; and these, indeed, are the *oeconomy* of certain conditions, but no more than a particular form of this virtue accommodated to small resources. In great fortune, the proper *oeconomy* is not parcimonious, but sumptuous and liberal.

In every estate, no doubt, it is proper *oeconomy* to accommodate expence or consumption to the supply which fortune affords. The most ample supply may be exceeded by a waste that is not restrained within proper limits: So that, whether to the poor or to the rich, the neglect of *oeconomy* will have its pernicious effects. If, to the poor, fortune be no more than the means of subsistence, a frugal use of such means is necessary to self-preference. If, to the rich, it constitute rank and power, a proper adjustment of expence to the measure of fortune is in their case necessary, to avoid dependance and degradation.

Moralists have talked so much of the vanity of fortune, and of its inefficacy to happiness, that they may be suspected of encouraging a dangerous neglect of affairs; a neglect by which the labourer may incur indigence and beggary; the trader incur bankruptcy; and those of the highest rank incur much embarrassment, or sink from their station.

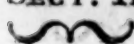
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It were indeed far from wisdom not to avoid such consequences ; but if, notwithstanding every reasonable effort of diligence to avoid them, they should be incurred, wisdom no doubt has its offices in that as in every other emergency. In every event, diligence, equanimity, and fortitude, continue to be the highest measure of happiness of which any given state is susceptible.

Whether any one has strength sufficient, as the philosophers of old conceived or feigned of the *Wise Man*, to be as happy under a disagreeable reverse of fortune as in the highest prosperity, may be questioned ; and every one may answer from an estimate of the strength of his own mind : But it cannot be doubted that the wise will endeavour to avail himself of his faculties, of his temper and resolution, in the manner most likely to support him, and to repel this or any other cause of distress to which he may be exposed. But if philosophy have taught him to believe, that virtue alone is happiness, he must not forget upon any event which befalls him, that the proper use of his fortune is a virtue, and therefore a part, at least, in that very happiness on which he is taught to rely ; so that whoever neglects the proper œconomy of his affairs, whether he err with the miser in penury, or with the spendthrift in prodigality, cannot plead the authority of philosophy for the folly he commits in either extreme.

The folly of the miser consists in the admiration of riches, without availing himself of their use, whether in accommodation to himself or in benefit to others, or rather it consists in sacrificing every advantage of wealth to the passion of merely securing the possession. The folly of the spendthrift proceeds from the opposite defect ; from a disposition

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disposition to waste in the gratifications of vanity and sensuality; or from a disposition to risk in hazardous adventures, whether of business or play, the means of subsistence, the securities of independence, or rank, and the materials of beneficence.

The vain expend their fortunes, and part with them in order to prove the possession. The sensual multiply expensive contrivances to procure an enjoyment which palls on the sense the more it is courted, or which, carried to extremes, impairs the faculties of the mind, and begets inattention to affairs. In those who depend on their labour for subsistence, sensuality is an improper consumption of what they acquire: It occasions a waste of time and forms a habit of indolence and sloth, the reverse of that industry on which the success of their labour depends.

The wants of nature are easily supplied, and the gratification of uncorrupted appetite is fully consistent with the higher and better pursuits of human life: But the voluptuary in acquiring habits inconsistent with these pursuits, is debauched by his imagination rather than by the force of his appetite, or by the solicitations of sense. Appetite is confined within narrow limits, and would leave the mind at leisure to employ itself otherwise, if it were not prevented by the fruitless project of seeking for continued enjoyment where it is not to be found; and in which imagination, because it never is gratified, is always insatiable.

Next to vanity and sensuality, dangerous adventures in business or play are most likely to mar the disposition to œconomy, or lead to the improper uses of wealth. The produce of chance is generally sudden, and, when great, takes the minds of ordinary men unprepared for the proper use of what they may have gained. The  
transitions

transitions of fortune in such adventures are sometimes extreme as well as sudden. When favourable they intoxicate, and easily plunge those on whom they have fallen into farther and still more inconsiderate adventures; and scarcely admit of any bounds to their course, short of some fatal reverse, which cuts off the source even of any farther adventure, and leads to despair.

In the enumeration of virtues which belong to the understanding, or to the superintending exercise of wisdom, were mentioned *decision*, and *caution*, habits of a seemingly opposite tendency, but equally necessary to obtain the ends of prudence.

*Decision* is a seasonable and resolute choice of what the occasion requires. In the defect of this virtue, and by improper delays, every opportunity is lost, and every measure comes too late. Wavering and fluctuation in the execution of any purpose are equal to a total inaction, or, by improper delay until the occasion is past, incur the double disadvantage of a labour bestowed, and of its disappointment or loss.

Every art may have its deliberations, and the artist will decide with advantage in proportion to his skill in the particular department to which he is bred. The decision which wisdom requires is a part in the business of mankind; *æque pauperibus prodest, locupletibus æque*; and although a certain felicity of decision in great affairs is the peculiar character of superior genius, yet the steps of integrity that do not waver in the conduct of human life, are attainable by such faculties of reason as ordinary men possess.

Cicero apprehends, that the questions on which we may hesitate in our ordinary conduct may be extended to five in number;

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ber; of which only three had been mentioned by Panetius, whose method he professes to follow in treating this subject of offices or moral duties. The first question is, Whether the action proposed be right or wrong? The second, Whether it contribute to our interest? And the third may arise where interest seems to interfere with duty, if it should be made a question which to prefer? To these three he subjoins the two following; first: Of two things that are praise worthy, which should be preferred? 2d, Or, of two things supposed to be useful, which is most for our interest?

In questions of the first kind, relating to right and wrong, conscience is the arbiter, and is for the most part ever ready to decide. Benevolence will lead us to aim at effects which tend to the good of mankind; and a principal object of deliberation in such cases is to distinguish with judgement, in what we may actually serve our fellow creatures, by contributing to their safety, their welfare, their instruction, and the good order of the societies to which they belong.

Questions of comparative utility, whether respecting our own advantage or that of other men, are often more problematical than mere questions of justice or right. Such questions occur in private and in public affairs, in the transactions of merchants, in the conduct of armies, in the deliberation of senates and councils of state. In all these departments genius or natural ability is conspicuous; but in every measure of natural ability, there is recourse to experience; and instruction, which being necessary even to the most able, may bring accessions of wisdom also to those who are by nature of inferior capacity.

The

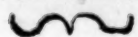
The question, of a choice to be made betwixt interfering considerations of interest and duty, is not to be admitted upon any principle of morality ; and although we sometimes feel for the person who is required to make great sacrifice of interest to the observance of his duty, we acknowledge the evidence he gives, in making that choice, of decided integrity and virtue ; but should scarcely admit of an excuse if he had acted otherwise.

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As to the additional questions proposed by Cicero, they coincide nearly with the two first questions which had been proposed by Panetius the original whom he professes to follow. Upon the same principle, by which we determine what is right in contradistinction to what is wrong, we may determine what is most strictly binding when we are pressed by calls of duty, of which only one in some particular circumstances can be answered. And in questions of comparative utility, we must proceed in determining what is most useful, upon considerations which lead us to distinguish the opposite measures of profit and loss.

Difficulties of choice are often great in questions that admit of delay and of the most deliberate discussion, but still greater in cases that come by surprise and require immediate decision. These are the trials of superior genius, requiring even together with that natural advantage the proper use of experience ; and as experience is necessary in the exertions of the highest capacity, so it may be useful to the lowest, and furnish that measure of prudence and wisdom of which ordinary men are susceptible. From the experience of the past, men are qualified to forecast what is likely to happen in the future. And may thus be prepared for difficulties, or ready to decide upon them before they arrive.

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Events, indeed, in the course of human affairs, are never determinable in the same manner with the events that regularly succeed one another in the mechanical system of nature. We know precisely at what hour the sun will rise to-morrow, but what action the caprice of thought and passion may lead a human creature to perform, at that or any other hour, is more than human foresight can reach, with any confidence above that of mere conjecture.

Where events are contingent, it is an object of prudence to admit into our account the different emergencies that may possibly happen, and to settle what our judgement and resolutions should be on the different suppositions which our experience may lead us to make ; so that even in cases of apparent surprise we may, in some degree, have the advantage of premeditation and deliberate choice.

*Caution* consists in a proper attention to the difficulties likely to arise in any business or pursuit in which we are about to engage. It is a principal feature of prudence, and what indeed in a great measure engrosses the name. We forecast the difficulty and expence of an undertaking, that we may not engage in what is above our strength. We attend to the characters of those with whom we are about to act, or whom we are about to employ ; that we may not confide in persons who, either from want of capacity or good faith, are unfit to be trusted.

The paths of human life are strewn with difficulties, and the cautious endeavour to foresee them, not that they may in every instance avoid, but that they may be the better prepared to encounter them. The virtue which they practise is to be carefully distinguished,

guished, from the weakness by which the timid or irresolute declines every duty, and in proportion as it appears to be hazardous or difficult. Caution is, in contradistinction to this weakness, a resolute purpose of action, and a collected state of the mind in which difficulties are foreseen, and proper measures are taken to surmount them.

As it is virtuous and noble to proceed in our duty, undismayed by difficulty or danger, so it is wise to forecast the circumstances in which we are about to engage, that we may be prepared to acquit ourselves properly. In this respect caution is not an attribute of fear, but is connected with intrepidity, constancy, perseverance, and a temper undisturbed in the course we have chosen to pursue, in all matters alike, whether trivial or important.

Such is the lesson which Epictetus would teach us to apply on occasions, however trivial, that may possibly try the temper. As an example, he refers to the public baths which were generally crowded at Rome by a promiscuous concourse of people. "When you are going about any action," he says, "remind yourself of what nature the action is. If you are going to bathe, represent to yourself the things which usually happen in the bath; some persons pushing and crowding, some dashing the water, others giving abusive language, and others stealing; and thus you will more safely go about the action \*".

The object of caution, according to this celebrated moralist, is not to prevent our engaging in actions that are proper for us to perform, but to enable us to conduct ourselves properly in the

X x 2

duties

\* See Mrs Carter's Translation of Epictetus.

PART II. duties to which we are called by justice, humanity, expedience  
CHAP. V. or necessity, however attended with difficult, hazardous, or dif-  
SECT. III. agreeable circumstances.  
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SECTION

S E C T I O N IV.

Of the Characteristics of Goodness, or Justice.

AS *Wisdom* is the specific attribute of Intelligence ; *Goodness* is the attribute of mind also beneficently disposed towards others.

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We may conceive intelligent beings employed on the subjects of thought, either without encountering any objects of affection ; or, without having any concern in the state of such objects, farther than to ascertain their reality ; to distinguish their qualities ; and to class them under general or specific appellations : In either case, this supreme order of intelligent nature would present but a partial view of itself. But, if we should suppose an individual who is part of a community, yet indifferent to the character of his fellow creature, or indifferent to the good or the ill of which they are susceptible ; in such a person, we should still not perceive any thing to be loved, and scarcely to be admired, even in the possession of the highest measures of penetration, memory, or other constituents of intellectual power.

Or

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Or if we should proceed from the supposition of indifference to that of malice and cruelty, or if we should suppose intellectual ability employed to devise mischief, and to sport with the afflictions of others ; intelligence itself, or ingenious device, thus perceived only in the abuse of it, would be an object not of indifference, but of detestation and horror.

Intelligence on the contrary, that is busy in observing just objects of affection, and possessed of a sensibility, to which no being susceptible of happiness or misery is indifferent ; a mind, which is ingenious in performing acts of beneficence, bears that character of goodness of which the vestiges are so deeply marked in the order of nature itself, and of which the participation is so essential to that virtue of which we would now enumerate the branches or effects.

This in the idiom of our language is termed, the virtue of the *heart* ; in the language of a neighbouring nation, joined with a just elevation of nature, it is termed the nobleness of the *soul* ; (*La beauté de l' ame* ;) and is indeed the principal grace of the human character ; whether in the conduct of life, or in the productions of genius. Hence the sovereignty of Homer among the poets of every age ; the high rank of Eschylus, Sophocles, and Euripides among the tragic poets ; of Tacitus among the historians ; of Shakespeare, and Milton among the poets of our island ; of Plato, Antoninus, and Montesquieu among the philosophers of every age.

To these may be emphatically applied the adage of Chremes, in Terence ; *I am a man, and nothing human is indifferent to me* *.

Wherever

* Homo sum ; humani nihil a me alienum puto.

Wherever men of this genius touch on the concerns of mankind, the most lively colours of good and evil are brought into view; and what they themselves feel on the subject, is, without any formal recommendation communicated to others †. Without this advantage, the brightness of mere wit however dazzling, is but transient; and seldom outlives the period of its novelty: With it works of ingenuity keep possession of the heart, and retain their powers undiminished from age to age; in these the innocent and the just can recognize his patron, or his friend; and enjoys a participation of sentiments, in which he finds his nature raised to a species of godlike benevolence to the world around him.

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SECT. IV.

Goodness in the conduct of life, is an aversion to be the cause of harm; it is veneration and love to the worthy; it is candour, and a desire to redeem the most defective; it is pity to the distressed, and congratulation to the happy; it is that disposition, from which a man, observing the rights of his fellow creatures, shuns every violation of them with the most sacred regard; from which he feels for their sufferings, and is ever ready to relieve them; from which he is faithful and true to his professions, or engagements, and ever ready, by acts of kindness and good will, to prevent,

† To him the mighty mother did unveil
Her awful Face: The dauntless child
Stretched forth his little arms, and smiled.
This pencil take, she said, whose colours clear
Richly paint the vernal year:
Thine too these keys immortal boy:
This can unlock the gates of joy;
Of horror that, and thrilling fears,
Or ope the sacred source of sympathetic tears.

Gray's Ode on the Progress of Poetry.

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CHAP. V.
SECT IV.

prevent or to outrun the wishes of those who by nature or accident are placed within reach of his influence.

The duties of goodness, considered in respect to their principle, may be classed under two divisions; of which the one includes all the modifications of *Innocence*, of which we have supposed the sanction to admit the applications of compulsory law; the other comprehends all the modifications of *Beneficence*, from which the applications of compulsory law are excluded.

There is a certain magnanimity with which the noble minded, in respect to the good offices required from their fellow creatures, limit their own pretensions to the mere effects of justice and of truth; but in performing such offices on their own part, consider the highest acts of generosity and kindness as no more than the discharge of a debt that is due to mankind. While they consider as benefactors to themselves, and fully entitled to esteem and gratitude, the person who is cautious of harm, and who respects the rights of his fellow creatures, they are ever ready to prevent the desires, or anticipate the wishes of those who are placed in their way.

In referring to the offices of goodness, as they may be separately comprised under the titles of *Innocence* and *Beneficence*, we may consider *Fidelity*, *Veracity*, *Candour*, and *Civility* as modifications of the first; *Piety*, *Personal Attachments*, *Gratitude*, *Liberality*, *Charity* and *Politeness* as modifications of the second.

And in extending this title to all the offices of civil and political society, it will include the reciprocal duties of magistrate and subject, as well as the duties of the citizen towards the community

munity of which he is a member. These may be termed the public offices of goodness; and to compleat the enumeration of its branches or parts will come to be stated in their place.

PART. II.
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SECT. IV.

With respect to *fidelity*, considered as an article of mere innocence, we may refer to what has been already observed on the principle of convention; that to break faith is an injury to the person with whom it was plighted. And it is an injury which the innocent will avoid, from motives of mere humanity, without regard to the sanction of compulsory law, or the force that may be justly applied to obtain the performance of a contract. The faithful, accordingly, carry the observance of this duty into many transactions which the arm of the magistrate cannot reach. They would feel themselves chargeable with guilt if they neglected to fulfil, so far as may be in their power, any expectation which they have occasionally raised, or if they should fail in the discharge of a trust for which any one has been reasonably made to rely on them.

As error and mistake are in the nature of things pernicious, as they weaken or mislead the mind, and in the conduct of life may produce indefinite mischief; *veracity* too, as well as *fidelity*, is to be reckoned among the necessary conditions of a virtuous life. This duty is to be observed not only where the immediate effects of mistake are detrimental, in respect to the estate or fortune of the person deceived, but even where by misrepresentation or exaggeration it tends to affect the mind with false conceptions of things whether momentuous or trivial. The innocent abides by the truth, because it would be a crime to deceive any one to his hurt. A man of sense will not deceive, because it were folly to

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SECT. IV.

discredit himself; and if fiction were indifferent to any of these effects, it is at least impertinent and idle.

This duty of veracity, however, does not exclude the use of fable, parable, or supposition, employed in illustration of any moral or physical truth, nor does it preclude the use of professed fiction, as in poetry, to multiply agreeable and rational conceptions of the imagination, without any intention to obtrude fable for truth, or fiction for reality.

It is not necessary to observe perhaps that the innocent, whose veracity is guarded by the single consideration, that it were injurious to mislead the conceptions of other men in any case whatever, will refrain with detestation from the least approach to calumny or false aspersions on the name and reputation of his neighbour. Aversion, to be the author of harm, will not only restrain him from propagating invidious reports, but will inspire him with mercy even to those of whom the conduct may have been offensive; he will not press down the load of reproach even where it has been incurred, and will strive to hide the error that is past, or the fault that may in the future be corrected.

Candour also is truth, but it is the truth that proceeds from humanity and fairness of mind; it is the just allowance which is given to the pretensions or merits of other men, even in circumstances, which to the uncandid would render them objects of hatred, as well as opposition.

The candid would conduct competition, and even resentment itself, with the least possible detriment to those who are the objects of either. He will admit a fact, even where it is unfavourable

able to his own claims. He will be more guarded in censuring an opponent than even an indifferent person.—Where it is not necessary to blame, he will be silent; where praise is due, he will acknowledge it; and will distrust any prepossession in himself by which he may be inclined to exaggerate the faults of an enemy.

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At the same time, unsincere and affected commendation of those we inwardly hate or despise, is not entitled to the praise of candour. This virtue is an effort of truth and veracity as well as beneficence. It spurns the unworthy, and scorns the affectation of lenity that is assumed from weakness, or employed by cunning, the better to ensnare or circumvent an opponent.

In competitions of interest, the generous and the humane are seldom vehement; in competitions of esteem, they are not apt to be jealous; and the security with which the candid proceeds, is generally proportioned to his magnanimity, and his desire to possess the constituents of real merit in himself, rather than to derive, whether in reputation or profit, the external fruits or effects of consideration from others.

Civility is a guarded behaviour to avoid offence even in the inferior concerns of human life. It is commonly joined with politeness in the character of good breeding, and these virtues or accomplishments are so far connected as they are both the effects of goodness, observable in matters supposed to be comparatively of small moment. They are however frequently and not improperly distinguished. The civil avoids to give offence, or any positive molestation in the ordinary concourse of men; the polite endeavours to furnish matter of satisfaction and pleasure. The

PART II. first therefore is an article of mere innocence, the other aspires to
 CHAP. V. effects of beneficence and positive service.
 SECT. IV.

The civil are careful not to offend by any effects of inattention or neglect, by any contemptuous reception of what others think or feel, whether by contradiction unnecessarily harsh, by any insult of vanity, affectation of precedence, or superiority of any sort. When ungracious office is necessary, they endeavour to perform it in the least painful manner, and qualify accidental offences with the most unfeigned desire to atone for them.

Where good understanding and good disposition are united, civility will not be wanting. It is not the exclusive appurtenance of any rank or condition, but the feature of considerate humanity, wherever it be found: It distinguished the keeper of the prison at Athens, in administering the poison to Socrates*, no less than the great emperor Aurelius, in his ordinary manner: To him nothing was indifferent in the conduct of life; and even a lesson of civility he had received was reckoned among the favours of Providence; not rudely to criticize

* The particulars here alluded to, are told by Plato in the Phædo nearly as follows,

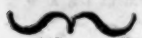
After Socrates came from the bath, he was seated, and continued silent, when the keeper accosted him in these words, "I know Socrates, that you will not blame me; but those who are in fault, and whose orders I am bound to obey. In you I have always met with humanity and mildness of temper, very different from most of those who are sent to this place. In doing my duty, I am commonly treated with rage and curses; but, I have not this to expect from you; I trust you know what my orders are; it is now time to take the draught; and so farewell, be reconciled as you may to what cannot be helped." In saying this, he turned about to depart, and burst into tears. How civil the man is! said Socrates, It was thus he would frequently come to amuse me with his talk, and strove to oblige me; and now how kindly his tears are shed: But let us mind his directions. Do Crito, if the draught be mixed, cause it to be brought.

“ticise any solecism or impropriety of expression or pronunciation; but in continuing the conversation, to pronounce the word again, in a proper manner, either by way of answer or enquiry; or as if to confirm what was said, and not as anxious about the expression; or in short, by some other skilful address to set the person right *.” But, with whatever degree of simplicity it may operate, it is still perceptible to those who can distinguish the genuine, tho’ seemingly feeble or negligent expressions of a benevolent mind. The ingenious peasant is civil, no less than the well educated gentleman, if together with a disposition not to offend, there be understanding to distinguish what would be offensive: But where either of these qualifications is wanting, men are apt to measure the obligations of duty by the mere external effect, and either do not know in what they are rude, or think themselves entitled to do or to say whatever does not materially affect the person or property of those with whom they converse.

Civility is a habit very generally acquired in the practice of society, where experience and knowledge of the world conspire to enforce the duties of good sense and of innocence. Here it may be considered as artificial, and they who are disposed to violate the rules of good breeding accordingly charge the well bred with insincerity or falsehood. In their opinion, rudeness alone is sincere; and a mannerly attention not to offend in trifles, a mere mask of hypocrisy.

The rude who are so apt to think an attention to others the effect of hypocrisy or falsehood, are equally inclined to consider the civilities which are paid to themselves, as a tribute of consideration due

* Vid. Grave’s translation of Antoninus, l. 1. c. 12.

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due to their personal importance or special merit ; but the crimes of rapine and murder are not a more certain, though a more pernicious evidence of a base and ungenerous mind.

Civility, considered merely as the habit of avoiding offence, is the first and most indispensable part of good breeding ; and may give to a conversation in which there is no solicitude to please, or design to flatter, all the form which is necessary to render it highly agreeable as well as instructive.

So far this branch of goodness, consisting in reluctance to be the author of harm, may appear to be a mere negation of evil, an exemption from malice, or any of its external effects ; but when we consider, among the general duties of candour, what a guard is necessary to secure the mind against the formation of prejudices ; to secure it against the effects of real or apparent provocation ; or what force of mind is required to preserve it untainted with jealousy or envy, in the competitions of men, as well as to prevent any external effect of these malignant dispositions ; it is evident, that the modifications of innocence are not to be supported without high measures of regard, and good will to mankind. It is even easier on many occasions to perform the most splendid acts of beneficence, than it is upon all occasions to maintain this uniform tenor of an innocent and unoffending life.

Beneficence, nevertheless, is supposed to be raised a step higher in the scale of the virtues than mere innocence, which terminates in refraining from harm. The catalogue of the blessed is accordingly made up by the poet, of such, as by positive efforts of benevolence

benevolence or magnanimity have promoted the progress, or contributed to the welfare of mankind. *

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SECT. IV.

Among the modifications of benevolence, *piety* to Almighty God, is justly entitled to the first, and the highest place.

This affection of mind is susceptible of indefinite gradations, beginning in this its highest pitch, modified by veneration only, without the possibility of any beneficent effect towards its object, and descending from thence, to what may be considered as its ordinary tenor among created beings, where the object, though esteemed or respected, may also on occasion inspire tenderness, or move commiseration and pity.

Wherever true benevolence operates, and the being of God is perceived, there piety to him must operate also; not as a principle of beneficence towards its object, but as the first and most essential form of an affection, of which the objects are wisdom and goodness in the degree, whether supreme or subordinate, in which they are conceived to exist.

This affection constitutes religion in the human mind, and has its external expressions and effects also. It is naturally expressed in terms, and in rites of adoration. "What else can I, says Epictetus, a lame old man do, but sing hymns to God. If I were a nightingale, I would act the part of a nightingale: If I were a swan, the part of a swan. But since I am a reasonable creature, it is my duty to praise God. This is my business;

* Hic manus ob patriam pugnando vulnera passi,
Quique pii vates, et Phœbo digna canebant,
Inventas aut qui vitam excoluere per artes,
Quique sui memores alios fecere merendo.

Virgil, Lib. 6to.

PART II. "finess, *I do it*. Nor will I ever desert this post as long as it is
 CHAP. V. "vouchsafed me; and I exhort you to join in the same song *."
 SECT. IV. It has a natural effect in rendering man the friend of mankind,
 being the family of a common parent, to whom the highest
 duty, that can be rendered is beneficence to the creatures he has
 made: So that the man who states himself as a willing instrument
 in the hand of his Maker for the good of his fellow creatures, is
 he whose piety renders the most acceptable service to God.

Although piety in its proper acceptation is a sentiment of religion, the term is nevertheless, by a kind of figure, employed to signify any high measure of veneration or love which we pay to any of our fellow creatures who are raised above the ordinary rank of men in our veneration or esteem. Thus it is *piety* in the child to love his parent. It is piety in the dutiful citizen to love and respect the just and beneficent magistrate who, more by his wisdom and his care than by his power, appears to be the viceroy of God.

But in every instance of good will to men, the effects of a benevolent disposition may reach the object of it in beneficent and positive services; and may be considered among the characteristics of a *social attachment*, upon whatever ground of connection it be formed.

Under this title we may consider the relations of consanguinity, of neighbourhood or acquaintance, as well as attachments of predilection and choice, more properly termed the connection of friends.

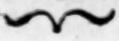
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In the relation of consanguinity men are not at liberty to chuse their objects. They may be associated together without esteem, affection, or confidence: yet there are certain duties which God and nature seem to require in the benevolent towards his kindred, although he may not apprehend any personal merit on which to ground any particular esteem or affection.

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The child cannot chuse what sort of parent he would have, nor are the wishes of the parent always gratified in the character of his child. Brothers are placed in the same rank together by the appointment of nature, in which their choice is not consulted; yet in all these instances there is a duty which nature has imposed, and in exemption from which, even the plea of demerit in the person to whom the duty refers cannot be admitted. The parent must not abandon or neglect even his profligate child, nor the child fail in attention and respect to the parent, even of whose failings and weaknesses he is most sensible. Brothers must not shrink from one another, even in cases of high demerit, nor leave, as a stranger might be left, even the guilty to perish unassisted under the effects of his guilt. The ties of consanguinity seem to be intended by nature as a special bond of society by which the dullest of men are mutually pointed out to one another as objects of consideration, even if they should not be sensible to the ties of humanity or merit under which they are placed to other men.

This principle, indeed, is perhaps more frequently abused as a source of undue partiality to those of our own kindred, or as a source of uncandid animosity to others or neglect of their merits, than it is ever entirely wanting in the disposition of individuals towards

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CHAP. V.
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the family of which they are members, and in whose fate they are themselves in some measure involved.

Among the examples of personal attachment, that which proceeds on the sympathy of affections directed to the same worthy objects; on the predilection of merit and unlimited confidence, is that which peculiarly merits the appellation of *Friendship*, and in which the parties may be said figuratively to have but one heart, one mind, and one interest.

In forming this connection the highest measures of probity are required. Virtue, operating in the minds of different men, may concur in all its external effects, but folly and vice are jarring and incongruous principles, which, in the degree in which they take place, render men unworthy and incapable of this sacred connection.

Intimacies of a different kind, consisting merely in acquaintance, or in a habit of associating together, are commonly enough known under the title of friendship: But the maxims or precepts which are applicable to one measure or degree of connection cannot be safely or properly transferred to another. There cannot be any reserve, for instance, in that entire affection and confidence which we suppose betwixt friends, and no limit to their friendly exertions, without a breach or forfeiture of the rights which friendship implies. In connections of inferior degree, it may be sufficient not to offend or not to neglect the duties of humanity which occasions present. In this instance, a more active principle is required, and the occasions of personal service not only taken when offered, but industriously sought for.

We

We are told of a maxim which some of the wise have prescribed, and others have reprobated: "*Live with your friend as with one who may become an enemy*". This maxim is prudent in the occasional co-operations of interest or party. The person who supports me to day, because it is his interest to do so, may wish to overthrow me to morrow, if an opposition of interest should take place. It may be prudent, therefore, not to furnish him as a friend with arms, which he may afterwards turn against me as an enemy. But this maxim, applied to the case of parties united by mutual conviction of unalterable worth, entire affection, and unlimited confidence, would be altogether preposterous, and cannot be adopted without discontinuing the connection of friendship, or stifling the affection in which it consists.

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Friendship or intimacy, of whatever degree, presupposes acquaintance or some occasional connection, in which the parties have an opportunity of being mutually known. Among such connections, *Consanguinity* no doubt is one, under which parties have occasion to give the most sensible proof of the degree in which they are mutually or severally qualified to become objects of confidence and affection. Nature has given to the parent a predilection for his child, which affections of the purest friendship may equal, but cannot exceed; and the return on the part of the child, being the natural recoil of the most tender affection, is scarcely avoidable; but still sentiments of this nature are distinguishable from the attachments founded in the preference of esteem and the freedom of choice. The friend who has mistaken his object, and become attached to a person unworthy of his affection, may become cold and indifferent as soon as he has detected his error; but the parent weeps when he has made such a discovery

PART II. respecting his child, and the child is abashed when he cannot
 CHAP. V. vindicate the character of his parent.
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The fortunes of men are sometimes involved in those of their kindred: Although we distinguish therefore the specific principle of consanguinity from indiscriminate affection and good will to mankind, yet it appears, that nature in planting the instinctive affections which unite the members of a family together, and which may extend to a numerous kindred, has in this manner sown the seeds of a boundless society. Or seeming only to connect individuals of a narrow circle together, has formed a chain, whose links being continued in every direction, extend far beyond where personal acquaintance or choice would reach.

Happiness, we have had occasion to observe, is an attribute of the mind, and benevolence, in the several forms of which it is capable, is a principle constituent of this attribute or condition of mind. It is happy to meet with an object of affection. It is happy to perceive the returns of confidence and love. The external effects and expressions of such reciprocal dispositions in the minds of men are highly agreeable, and may be of the greatest use; but still, in estimating the happiness of friendship, we return to the mutual affection itself which takes place between friends, and is the principal constituent of its value. The external effects of benevolence may be intermitted for want of occasion, but the affection itself cannot grow cold without causing the enjoyment it brings to cease.

In considering connections of choice, the first subject of casuistry or moral instruction must relate to the choice itself, or the discernment of its proper object.

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As the proofs of merit may be slowly collected, it is evident, that confidence of the highest degree is to be cautiously given, and in the result of time and continued experience. The first requisite in the character of a friend, doubtless, is probity and good intention. Intimacy with the profligate is a snare to the innocent.

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A second quality, and likewise in a high degree necessary, is understanding, or what is commonly termed good sense. The society of fools is the accumulation of folly. Whoever is deficient in point of judgement or understanding may hurt where he means to serve, and often from mere weakness of mind, without any intention to betray, fails in the trust which is reposed in him.

The ingenuous will value the affection of his friend more than any of its external effects ; but in gratifying the sense of his own mind, will be ever attentive to observe in what manner he may be useful to his friend, and it is in bearing the important character of a beneficent and trusty associate, that persons are most likely to win the affection and confidence of those with whom they are destined to act.

The worth of a man is made known by its external effects ; and though external effect is subordinate in value to the affection of mind, yet neither this nor any other connection in the minds of men could exist otherwise, than by means of the external effects and appearances which cause them to be mutually known.

To a young man, who complained that he had no friends, and
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was generally neglected, "Consider," said Socrates, "what
" are your own merits. Are you of such value to mankind, as that
" any one should single you out as an object of predilection and
" friendship? If you were of such value, the world knows its in-
" terests too well, to neglect or overlook you. Shew yourself a-
" ble and willing to act the part of a friend, you will find many
" to solicit your favours, and some who will deserve your high-
" est confidence."

A person, who in the manner of this young man laid claim to the attention and friendship of others as matter of interest to himself, was very properly called upon to consider in what degree he bestowed upon the interest of others that consideration which he required to his own; but the fires of affection and benevolence, which are kindled in the human breast on occasion of external marks of affection and good will, greatly surpass in value those external occasions on which they are kindled.

Gratitude, the third article in our enumeration of the characteristics of beneficence, is in the mind of the grateful the sense of a benefit received, and among the external duties of life it is an effort to repay with affection the favours which have been done.

Benefits may take place between strangers and persons unknown, and may proceed from any occasional emotion of good will or compassion, as well as from established sentiments of personal attachment. But wherever an act of kindness is done, a proper return is conceived to be due; it is conceived to be due to a stranger or person unknown, who has done a good office, even more than to a relation or a friend.

As the sense of an injury done to ourselves is different from the
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sentiment of indignation at wrongs in general, so the sense of a benefit received is different from the general approbation or esteem of beneficence; and where actual favours are conferred, we conceive a species of debt to be contracted by the person who has received the obligation; we sometimes pass from the idea of a debt of gratitude, as it is sometimes called, to the requisition of penal statutes by which we would enforce the discharge of it. Such we are told was the policy of some ancient nations, who in their wisdom, "highly worthy of imitation," did not neglect to punish the ungrateful, any more than those who were guilty of any other crime pernicious to society.

There is not however sufficient reason to believe, that such was ever the actual policy of any nation whatever. Such a policy would tend to place the relation of parties who bestowed or accepted a benefit upon a very different footing from that upon which beneficence and even gratitude are supposed to proceed. Where the law would enforce the returns of good will, it would be difficult to distinguish an act of kindness from an interested loan; or the acceptance of a favour from the contracting of a debt. For this purpose of law the precise value of a benefit ought to be fixed, in order to estimate the return; and the prospect of gain, or the necessity of compliance, substituted for kindness in the exchange of good offices, would totally alter the nature both of the benefit and of the return. A benefit offered might be considered as a snare to be carefully shunned, until the measure of the expected return was ascertained; and in this manner, what ought to be the spontaneous effects of benevolence could not be distinguished from the traffic of interest.

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In respect to this duty of *gratitude*, therefore, as well as in respect to every other act of beneficence, the necessity of keeping distinct the functions of morality from those of compulsory law is extremely evident. We enforce the payment of a debt, that persons in possession of property may be safe to lend; but we only commend or enjoin the duties of gratitude, that the benevolent affections may have their natural scope in the societies of men.

Whoever strives to enhance the value of a benefit which he himself may have done, and urges the claim of gratitude too far, offends against the moral principle of beneficence, not less than he who appears insensible of the kindness he has received, and there is not in the nature of things surer evidence of a mind that deserves no return, than that of upbraiding others with the benefits which we suppose ourselves to have conferred.

Liberality is a character of unreserved beneficence in matters agreeable or obliging to others. It is a natural effect of disinterestedness or cordial affection, but is observed to be unequal in persons perhaps originally of equal good dispositions, when warped by different habits in different conditions of life. Men become illiberal in a state of dependence, under personal awe and under the necessity of attending to sordid or trivial considerations. They escape this defect in opposite circumstances, of independence, freedom, or exemption from sordid concerns: And there is a certain force of mind above it in all situations.

The effect of external condition is to give scope to original disposition, not to inspire it. The country gentleman, without any uncommon degrees of generosity, surrounds his dwelling with
pleasure

pleasure grounds, and substitutes ornament for gain. He would make every one feel, in the manner of expending his fortune how little he regards the returns of profit. And yet, even in this, he retains what may be termed a sordid predilection for subjects which he is pleased to call his own. Beauty is no man's property, and may be made to pervade the face of a country without regard to this circumstance. The liberal may bestow it on subjects of public concern, on high-ways, bridges, barren hills covered with wood, and public places adorned with monuments of distinguished men or distinguished events; and all this without expecting any returns of admiration or profit. As the Almighty makes his sun to shine on the evil and on the good, the liberal is not checked by any supposed want of merit in mankind; he can restore a plantation which the mischievous idler has destroyed, restore its number on the mile-stone which has been defaced, or repair the parapet which has been broke down.

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Such might be termed the luxury of a liberal mind in great wealth: But liberality is not, as we are sometimes inclined to suppose, peculiar to the rich, nor limited to the bestowing of gifts or the conferring of favours. A person may be liberal in his commendations of merit, in his concessions to a rival, in his manner of treating an enemy, in his neglect of petty advantages, in his impartial and indiscriminate attention to persons entitled to his regard, and in the general frankness of manner with which he transacts any business, without jealousy or mean distrust, and without any harsh interpretation of the words or actions of those with whom he is concerned. He may be liberal in doing with a cordial alacrity even what the law would oblige him to do. The character of liberality, in short, is that freedom and noble-

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ness of manner with which the ingenuous upon every occasion do what is right ; not as a part they have studied, or a task to which they submit, but as a part which is natural to them, and as a pleasure in which they indulge themselves without design or reflection.

The proceedings of a liberal mind at the same time are the expressions of an upright intention ; and far from being indiscriminate in the choice of their objects, the liberal spurn and awe the unworthy with the same irresistible effect that they gain or encourage persons of an opposite character ; they appear indeed to be secured from mistake in the choice of their objects, only by a kind of instinctive discernment, without difficulty, hesitation, or anxious reflection.

Charity is the character of beneficence exhibited in relieving the distressed. It proceeds from that specific form of benevolence which is termed commiseration or pity. As the distresses of men are various, the motives of humanity in the different transactions of life may operate to a variety of effects. From such motives the generous victor may spare the vanquished and release the captive, as the charitable will feed the hungry, clothe the naked, or visit the sick.

In the variety of distresses incident to human life, the rich may have their share and their claim to relief as well as the poor ; though in the common use of this term, it is limited to those acts of beneficence which the rich are peculiarly in condition to perform, and of which the poor may receive the benefit.

Wherever

Wherever property is established, it comes of course to be unequally distributed. It accumulates in the possession of some, and is entirely wanting to others. As this inequality may be traced to its origin in the unequal dispositions of men to industry and frugality, as well as more casual advantages, so it serves to maintain, in the most prosperous and wealthy societies, some remains of that necessity which nature has intended for the species as a spur to their industry and incentive to labour. If the wealthy are relieved from the necessity of toil, or may chuse the objects of their pursuit, the poor still remain subject to this necessity; and few are exempted from every application that may contribute to enlarge the stock or promote the welfare of their community.

The inferior ranks of men, even where they are not urged by necessity, are, by ambition, and by striving to gain for themselves the advantages which they observe in the possession of the rich, excited to promote or increase the wealth of their country.

As we may venture to assume that the wealth of nations consists in the labour of the poor, or in the industry and ingenuity of those who are desirous to make for themselves acquisitions of fortune; so to the poor, health, strength, and whatever else qualifies men for daily labour and successful pursuits, are the inheritance which nature has provided, and the use which they make of that inheritance is the source of wealth and prosperity to the community of which they are members.

If the use of industry or labour could be entirely superseded in any society, or, in other words, if the poor could be supported

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gratuitously, this would be to frustrate the purpose of nature, in rendering toil and the exercises of ingenuity necessary to man; it would be to cut off the sources of wealth, and, under pretence of relieving the distressed, it would be to reject the condition upon which alone Nature has provided, that the wants of the species in general shall be relieved.

For these reasons, poverty alone is far from being a sufficient recommendation to charity, and the undistinguishing practice of this virtue would be highly pernicious; as by enabling the poor to subsist in idleness, it would deprive them of one great preservative of their innocence, and a principal constituent of happiness, the habit of regular industry; and deprive the community of its best resource, the labour of its members.

It is a wise maxim therefore in every well ordered society, that no person able to earn his bread, should be maintained gratuitously; that the feeble should be assisted in supporting themselves, but that they only who have no bread, and are unable to earn it, should be maintained by charity. This indeed is a condition to which the industrious poor, or such as depend for subsistence on their daily labour are frequently reduced; whether by old age, disease, or misfortunes. In every such case, they have a claim not only upon the humanity and compassion of the rich, but upon the justice and good policy of their country also.

Their claim upon the humanity of those who have it in their power to relieve them, is doubtless irresistible; but it is of too serious and important a nature in the view of good policy, to rest the provision of the necessitous poor entirely upon this principle.

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As the labour they bestow when able to work, may be considered as employed in the public service; it is but just, that the public should charge itself with the care of those, who by age or misfortunes are become unable to subsist themselves.

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In whatever manner public provision is to be made for the necessitous poor, whether by Hospitals and places of public reception, or by distributing the supplies of necessity to the private habitations of those who are entitled to receive them, is a question rather of public oeconomy and good policy, than of moral duty.

We may however observe on this subject, that where the public has provided most effectually for the relief of such necessities as are publickly known, still much remains to be done in private charity; there must still be many persons who, although they cannot or will not establish their claim to a public support, may be so well known to individuals, as to entitle them to all the attention which humanity and compassion can bestow. In such cases frequently the benevolent have an opportunity to taste the sweetest fruits of beneficence, where it is at once proper to bestow, and to conceal its effects.

Beneficence, under most of the characters we have now mentioned, whether *friendship*, *gratitude*, *liberality*, or *charity*, may be supposed productive of some material effect, and be sensibly useful to those who are the objects of it. The benevolent affections, however, may subsist where such effects are seldom wanted, and where good will, esteem, or the manners they produce, are nevertheless the principal source of enjoyment: And goodness may operate with signal advantage, where the effect is no more than the expression by which the beneficent intention is known.

Goodness,

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Goodness, we have observed, in the form of civility, may be considered as an article of mere innocence, or the effect of a disposition to avoid offence. In the form of politeness, it is a positive disposition to oblige; a disposition, in the exercise of which the benevolent find occasion of good offices, where neither the profit, nor the safety, nor the personal accommodation of parties are at stake. It may operate on every occasion, in efforts of attention, good will and respect; when we confer, or when we withhold the objects of choice or request. The first is done with a liberal promptitude, the other with an unaffected regret.

The polite is attentive to the habits, expectations, and feelings of those with whom he converses: He would prevent their requests, by anticipating the effects; and would conceal his own wants, where the knowledge of them might importune or distress those to whom he is unwilling to be troublesome.

The duties of politeness, compared with those of other virtues, carry the idea of slight obligation. They are termed good manners, because we consider the manner more than the effect, and they are supposed to terminate in some trifling forms, which any one that is willing may acquire by rote. There are no doubt some pretensions to good breeding, of which these observations are true, but considered as an article of beneficence, there is not any duty in which good sense, sincere benevolence, and candour are more necessary.

Without discernment, the affectation of politeness becomes a source of molestation and trouble; without benevolence, it is a mere ostentation of superior breeding. Its forms, like the words
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of a language, may have been arbitrary in the original use of them, but when established, convey the meaning of persons, who speak, in a way that entitles them to esteem and confidence, or, on the contrary, renders them objects of disgust or offence.

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As the language, so the manners of particular societies may differ; and as a person may not be able to speak with propriety where the language is foreign to him, so he may not appear with accomplished politeness where he is unacquainted with the ordinary forms of behaviour, or where he is altogether unpractised in the observance of them.

Whatever the habits of society may be in such matters, they are no doubt soonest and most effectually acquired where the intercourse of men is most close and frequent; and the manner of this intercourse, considered apart from any actual effect, is supposed most important.

From this consideration it appears that the name of politeness, both in Greek and in Latin, took its origin from an idea, that to be polite was to have the manners of the town, in contradistinction to those of the country*.

Apart from the consideration that the feelings and wishes of men may be better understood in the habits and manners of one society, than they are in those of another; it is certain, that where societies differ in point of manners, on whichever side the advantage of superior intelligence may lie, persons of the best disposition

* In Greek the polite was termed *Αστικός*, and in Latin *Urbanus*; and from the latter of these terms, we consider urbanity in contradistinction to rusticity.

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position may appear defective in politeness, where the manner of shewing it is not familiar to them; but this no more incapacitates the peasant for politeness in the city, than the citizen for politeness in the country. If the peasant appears rustic in the town, the citizen may appear frivolous, ignorant, or affected in the country; and of the two that person is most deficient in breeding, who is farthest gone in the mistake, that the local habits of a society to which he himself is accustomed, are the standard of good manners to mankind.

The real standard of manners, so far as it can be collected from external expressions, is the ingenuity, candour, and disposition to oblige, from which those manners proceed.

The habits which the mind may have acquired in those important respects, may be traced to the objects of estimation, which men in different societies have been led to adopt. In societies where men are taught to consider themselves as competitors, and every advantage they gain as comparative to that of some other person, the conscientious may be faithful and true to his engagements, in what he is pleased to think matters of real concern; but the emulation in which he has been nursed is a fretful passion; and politeness, under its influence, cannot be any other than an effect of disguise. The interested and sordid make no allowance for good or ill offices that neither fill nor empty the pocket. With such persons as these, even virtue itself is illiberal, and kindness unmannerly.

For this character of goodness, which is distinguished in the offices of mere good breeding, it should seem, that we must resort to the company of those who are least actuated by sordid cares,

cares, by personal jealousies, or by any consideration of interest which in the ordinary society of men can be brought into question. In company of this sort, men are accustomed to lay a proper stress on the effects of good sense and benevolence, however little their fortunes may be affected by them. Whilst in societies of a different description, they run the hazard of an opposite character; may be just and beneficent in what they term articles of moment, but from an affected indifference, or real insensibility to what they consider as matters of inferior value, are fullen, contemptuous, or negligent on many occasions, on which benevolence and good will might contribute essentially to the happiness of human life.

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Men are thus likely to be polite where the habits of life are likely to be liberal; that is, where benevolence is not stifled by sordid cares, oppressed with dependence, awed by subjection or mean apprehensions of danger. We are to look for this character, therefore, in the higher ranks of life, or to hold the defect least excusable if it be wanting there. It is not indeed a necessary accompaniment of riches or luxury; it is found amidst the poverty of rude nations, and in the society of men least acquainted with the arts of accommodation. Their ignorance of the ordinary constituents of interest secures the mind from the meanness of sordid and illiberal competitions, and the very savage, exempted from the teasing regards of personal vanity by his passion for the real and superior distinctions of courage and fortitude, preserves, we are told,* in the society of his equals, a good breeding and respectful attention that is not excelled in the higher circles of polished society. It is part of his dignity to remain unmoved by novelties, to be serious and courteous in his ordinary manners,

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* Vid. Charlevoix's account of the original Natives of North America.

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and he is no less agreeable and insinuating in the character of a friend, than he is terrible and dangerous in that of an enemy.

To need nothing and to possess every thing are, perhaps, equally favourable to that liberality and politeness of manners which we commonly consider rather as the polish, than as the essential constituent of goodness. The naked inhabitant of the Pelew Islands accordingly appeared to possess all the attention to oblige, and all the reluctance to intrude or importune, which, in the polite circles of Europe, distinguish the accomplished gentleman.

To what purpose then, it may be asked, should we know all this; if the models of good behaviour may be taken even from those who are least instructed in the use of them.

Men are happy sometimes in the absence of incentives to evil: But where evil obtrudes, it is the nature of man to act from what he knows to be good, and in opposition to what he conceives to be evil. Where he cannot be ignorant, it is proper he should not be deceived, and where his virtue is in question, he should be accustomed to revolve in his mind the real constituents of a virtuous life.

The observations now made on the characteristics of justice and goodness, relate to human nature at large, in whatever relation of fellow citizen, or alien, of magistrate, or subject. As the benevolent will be humane to his fellow creature in every relation, in that of fellow citizen he will be candid and beneficent; in that of magistrate he will be diligent and inflexibly just; in that of subject he will be respectful and orderly.

To

To these we allude under title of the public offices or duties of justice and goodness, comprehending protection on the part of the magistrate, allegiance on the part of the subject, and public spirit the common duty of citizens in every rank or condition of life.

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The relations of men in society, considered in respect to their origin, are frequently casual. In their progress they acquire the force of convention; and as constituting the form on which the peace and welfare of society depends, are to the benevolent the most real and the principal objects of attention and respect.

The dutiful and just citizen may on occasion consider what he has a right to enforce, that he may exact no more; but does not so much consider what he himself may be forced to do, as what in goodwill to his fellow creatures, he ought to perform.

On the part of the subject, and under the title of *Allegiance*, are included *Fidelity*, *Deference*, and *Submission* to the will of the Sovereign or Magistrate. This is the head of the society, and is therefore an ostensible or principal object of that affection we bear to the society itself; his virtues are the securities and blessings; his authority is the source of peace and good order to the whole.

Unhappy is that subject, who can mistake for *Liberty*, a disrespect to the person of the magistrate; and who can perceive no beauty in the gradation of influence, or distinction of ranks, in which providence has made the order of society to consist.


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Equally unhappy on the other part, is that magistrate or sovereign, who can mistake the institutional powers of his situation for a concession of property to him in the persons, effects, or services of the people. He has power indeed to do harm, as well as good; but this is not peculiar to him; the robber and the assassin partakes in it with him, and with this single difference, that the latter in his attempt to do wrong exposes himself more; and where the mischief is equal, is to the whole amount of his courage the better man. But as the actions of men in every relation are mutually important, and as every one has it in his power, so no one is exempt from hazard or risk in his attempt to do harm. The tyrant is fearful in the midst of his guards, and many of his cruelties are mere acts of precaution against the resentment he has already incurred.

But if power be sometimes observed to corrupt those who are entrusted with it, the benevolent magistrate or sovereign has greater advantages towards forming his mind to humanity and justice, than those of more private station. The concerns of his fellow creatures are more immediately his own: The commonwealth upon one account or other, is ever present to his mind: The prosperity of the people is prosperity to him; and the disposition most natural for him to feel, is that of a parent towards the family in whose welfare his own is involved.

The force with which he is armed, is that of the community, and reminds him of the use to which it should be employed. If there be a law of Nature or State on which he founds his prerogative, the same law is no less sacred in its application to the privilege or protection of the meanest citizen.

Public spirit, or the preference of public to partial consideration, is a duty incumbent on every member of the community alike.

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Under every form of a society, the individual does a real service to the public by the reasonable and proper care of his own preservation, by attention to the welfare of his family, and by a diligent observance of what belongs to his rank, his profession, or condition of life. An immediate view to the public is unequally required under different constitutions of government; most under democratical governments; and least under absolute monarchies, where public deliberations are limited to the councils of a Prince. But wherever just precautions are taken in the national establishment for the safety and welfare of the people, it is happy for every individual to know and enjoy the advantages of his own situation, without giving way to that restless spirit, which in the absence of any real grievance would aim at fanciful refinements of Law or State.

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Of the Characteristics of Temperance.

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THIS virtue, in the general description of it, implies that disengagement from mean pursuits and gratifications, which gives to the mind full command of its faculties in the preferable occupations of a rational nature. It is the peculiar attribute of a being, in which animal and intellectual powers unite, and is the proper adjustment and effect of such power in the general tenor of a happy life.

Mere animals when compared to man, we have observed, proceed more by regulated instincts leading to the specific materials which they have occasion to use, and terminating in a measured application or enjoyment of these materials. They seldom err in the choice of their objects, and seldom exceed in the measure of their gratifications; whereas the principle of animal appetite in human nature, though instinctive also, and equally correct in the end for which it is given, is less circumscribed in the use of means, or is more subject to err under the influence of imagination or opinion; these when mistaken for reason, serve only to mislead the

the animal dispositions, which they affect to guide: Infomuch, that when the conceptions of mind are false, the animal appetites are the more apt to go wrong for being joined with an intellectual principle.

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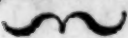
To man therefore, neither the first conceptions of his mind, nor the instincts of his animal frame are a sufficient guide to the course of life he ought to pursue. These conceptions and instincts are themselves a province subjected to the superintending power of intelligence, and requiring to be governed with circumspection and caution.

This mixt nature of man is beautifully allegorised by Plato, under the image of a Team, in which animals prone to the earth, or wild beasts of a spirit, fiery, restive, and unruly are yoked together with coursers of a celestial breed: These struggle to maintain a better or more elevated course, than that into which they are dragged, whether downwards or astray, by the others with which they are combined in the team.

To whatever length we may pursue this allegory, we must observe, that among the animal appetites there is not any one superfluous, nor any one which should be entirely suppressed. The frame of nature is beautifully constructed, and its movements make an admirable part in the order of things. There is no reason to reprobate any of its enjoyments merely as such.

Mankind indeed, in different ages or nations have varied in their conceptions on this subject. They would repress one sett of animal enjoyments, and authorise another. If in one quarter of the globe, the gratifications of the table are left at discretion, those of the sexes are restrained. Or if under the sanction of religion, certain meats and the use of fermented liquors are prohibited ;
polygamy

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polygamy, or a kind of systematic debauch of the sexes, is admitted as a privilege of the true believer.

Whether men derive their apprehension in such matters, as they sometimes derive their conception in other subjects, from the suggestion of occasions which we do not perceive, and which we therefore, term caprice ; or whether they are led by considerations of expedience and utility peculiar to their climate, or manner of life, the conceptions themselves, when generally entertained, give rise to maxims of decency which are no doubt to be treated with that respect which individuals ever owe to the manners of their respective times and countries. And although men of reflection may distinguish what is arbitrary in the manners of those with whom they live, they are not on this account by any means entitled to neglect the observance of them.

The informations of reason are not sufficient to direct the steps of ordinary men ; nor are the marks which custom has affixed in particular situations to give warning of the dangers to which morality is exposed, altogether superfluous, even to men of superior discernment and wisdom.

It is however proper to observe in characterising the virtue of temperance, that in the general application of its rules to mankind, it is not limited by the local or temporary apprehension of any nation or age : That it is not to be defined by the peculiar restraint or indulgence which is adopted in the East or in the West, but is such a freedom of mind from the dominion of inferior appetites and habits, as enable the person possessed of it to pursue the better occupations of a beneficent and intelligent mind.

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The cardinal virtues, we have observed, may be comprised under the denominations of *skill*, *disposition*, *application*, and *force*. *Wisdom* is the skill of the virtuous to obtain the ends of beneficence; *Goodness* is the disposition to pursue these ends and so far as the animal appetites unrestrained might impede the mind in its better pursuits; *Temperance* may be considered as essential to the application or diligence required in performing the duties of a virtuous life.

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Under habits of sensuality, whether in devising the means of enjoyment, in urging enjoyment itself to satiety, or in attempts to restore the fatiated appetite, there is a necessary waste of time. And in the diminution of health, or intellectual faculty impaired by debauch, a disqualification ensues for any better application of mind: So that man, without a proper guard upon himself in this particular, might be entirely diverted from the objects of his rational nature, deprived of his understanding, or sunk into a state of brutality more disorderly than is any where else exhibited in the animal kingdom.

Mere forbearance or ascetic severity, however, is not sufficient to prevent or to correct this evil. Abstinence may be extreme, and no less than the opposite vice of excess, enfeeble the living frame and impair the energy of the rational powers; nor is mere sobriety, however regulated, sufficient in this important respect to complete the merit of a virtuous character. The miser is sober from penury, or that he may save his money; the sharper is sober, that he may succeed in some stroke of his art, and overreach or circumvent those who are less guarded in their manner of life.

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To have the merit of temperance, it is necessary that the supposed recess from animal gratifications should be employed in a better way; in a diligent discharge of ordinary duties; in pursuing a rational course of life, and in the exercises of intelligence which lead to the attainments of wisdom and promote the progress which human nature is destined to make.

Temperance, therefore, may be considered as consisting of two branches, sobriety or restraint from excess, and application or a proper direction of mind. To the first are opposed *Debauchery* and *Sensuality*; to the second *Dissipation* or *Sloth*.

To a person apprised of the higher enjoyments and occupations of a rational nature, it is not difficult to restrain the mere animal appetites within reasonable bounds. Their gratifications are not in their nature calculated to occupy a long or improper portion of time. When their purpose is obtained, they cease to importune; nature gives warning of approaching excess in feelings of satiety, disgust, or of positive pain; and although the glutton, without attending to these admonitions, may hurry his meal into surfeit or fatal excess; yet, in general, mere appetite is not the source from which intemperance is most likely to arise.

Sensuality is a disorder of the mind; it results from the imagination, and is a project of obtaining a continual enjoyment where nature has given no more than a capacity of occasional and temporary pleasure.

An agreeable sensation is fitted by nature to allure the animal to perform the functions which are required for the preservation

vation of her work. But attempts to prolong or to accumulate such pleasures, for the most part wear out or impair the very faculty by which they might be enjoyed at their reasonable periods; or if this effect should not follow, the intervals of mere sensual gratification require to be supplied by some amusement or pastime of a different kind, as conversation, exercise, or play: So much, that if the voluptuary appears to pass his time agreeably, his principal enjoyments are of a nature very different from those of any mere sensuality, and actually consist in applications or exercises that amuse the mind.

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Under this imposition of fancy, or misapplication of language, which refers all human as well as animal enjoyment to sense, it is not uncommon to call that a life of animal pleasure, which is in fact a life of mental occupation or social amusement; and although the specific enjoyment of human nature on many occasions consists in its being rationally employed, it is common to consider the more serious engagements of life as an oppression or interruption to pleasure.

In consequence of such misapprehensions men are doubly misled, they are turned away from that which constitutes the merit and felicity of their nature, to objects which are inadequate to their purpose; and which, to fill up the moments of human life agreeably, must be pieced out with what they term amusements, and which are in reality mental engagements, though of a value inferior to those which they reject as a burden.

The disposition of human nature in the mean time is favourable to the attainment of proper habits, if we are successful in removing those which are improper. An exemption from sloth necessarily implies activity: We can scarcely refrain from one

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set of pursuits without betaking ourselves to some other ; so that mere relief from the habits of sensuality, or the longings for animal pleasure, may of itself lead to better applications of mind. Many circumstances concur to recommend beneficence, and to interest men in the welfare of their fellow creatures ; and if they be not debauched by habits of a different tendency, they are likely to move in the track of their duty as the most natural path in which they should go.

The greatest danger to which the ingenuous are exposed in making a choice of their active engagements, is that of neglecting business for the sake of mere amusement or pastime, in which, without sinking into sloth or sensuality, they form habits of dissipation equally fatal to the higher and better engagements of the mind. They lose the faculty of serious exertion, and shrink from any thing that has the aspect of business, as the sickly stomach loaths the appearance of wholesome food.

As it is difficult to ascertain the distinction betwixt amusement and business, the one by a very natural figure is easily substituted for the other. Thus "*Business*," says Sir William Temple, "*is the diversion of man ;*" and there is no doubt, that persons who betake themselves with alacrity to any serious occupation, thereby are more effectually amused or diverted than those who affect a life altogether composed of dissipation and pastimes.

The human mind is not amused without an object, and the nearer that its object, in the interest it creates or the ardour it excites, approaches to what are termed the important affairs of life, the more effectual the amusement or pleasure it brings. The dissipated, accordingly, while they fly from business as an application of

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too serious a nature, find some other interest or passion to command their attention; and are in fact the more entertained, that their faculties are intensely employed, and their affections warmly engaged.

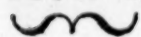
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The gamester hazards his fortune, or the hunter exposes his life; and both, in order to be amused, require the highest measures of exertion, of eagerness, and agitation of mind. When familiarity with an object has lessened the ardour it brings, they seek for occasions to renew their interest, and to awaken their passion: They strive to do for themselves what nature has sufficiently done for the whole of the human race; they create a necessity of labour, and an occasion for the exertion of their powers. Of this sort, the huntsman may observe that nature has stored human life with abundance of game; and the gamester may observe, that she has proffered to mankind in every situation, a stake for which they may play; and if they are pleased to join the satisfaction of promoting the welfare of others with that of preserving and accommodating themselves, they will find little occasion to rack their invention for pastime or concerted amusements; nor will they be led to imagine any thing more pleasant to be done, than that which they are in the present moment, and by the proprieties of their station called upon to do.

This were the genuine result of temperance; a well directed activity of mind, exempted from the dreams of the voluptuary, or the dissipation of the idle. It would consist in a proper use of what is prepared for the purposes of animal life, and in the habit of applying to what are the proper engagements or occupations of a rational nature.

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In youth, we are for the most part unwilling to apply to any thing that does not promise immediate gratification or pleasure: And this disposition, if indulged, leads to a habit of dissipation for life: It lays the foundation of a frivolous manhood, and a wretched old age, about to depart from the paths of this mortal scene without leaving any honourable track behind. It were happy, if in youth we could be persuaded, that the care of parents and tutors to give proper habits of application, though at first disagreeable, is in the way to future satisfaction and pleasure; or if we could be made sensible at this time of life, that we are not more interested to acquire knowledge, or receive information, than we are to form habits of diligence, and a just direction of the mind to the pursuit of those pleasures, which are at once honourable, permanent, and just.

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Of the Characteristics of Fortitude.

TO the requisites of an active character, which we have been considering, it is necessary to subjoin that of a forcible or resolute mind : Under this title, *Fortitude* is required to fill up the sum of the virtues.

In mere body, there is a force constituted by resistance to change ; in animal life, it is courage and muscular strength ; in free agents, it is a determinate choice of conduct unaltered by difficulty, suffering, or danger.

It is not required that the resolute mind should be insensible to the warnings which, in the form of pain, nature has given of the ills to which the animal nature is exposed, nor does it require the neglect of such warnings, or of the means that may be employed for safety in consequence of them ; but as the duties of human life frequently call upon the virtuous to pass through inconveni-

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cies, and to incur danger or pain in the conduct of some worthy pursuit, the quality of a mind possessed of itself, and undisturbed in the exercise of its faculties is required to complete the character of virtue.

In this scene of difficulty and danger, the actor cannot proceed with a mind that is deficient in fortitude, any more than the archer can shoot with a bow that wants elasticity or strength.

Among the principal characteristics of this virtue may be reckoned *Resolution*, *Intrepidity*, *Patience*, and *Constancy*.

In all these instances, no doubt, force of mind, like strength of body, may be employed to an *ill*, as well as to a *good* purpose; but as mere abstinence from animal pleasure, without a proper application of mind to better pursuits, does not constitute temperance, so neither does exemption from fear or impatience constitute the virtue of fortitude.

The ignorant are sometimes fearless, because they know not their danger. The criminal is daring, from the force of some vicious passion; but fortitude is the strength of integrity that is fostered by a conscience void of offence, and is as far removed from the audacity or impudence of the profligate, as it is from the baseness of the coward.

Resolution is the courage with which the virtuous proceeds in his course of beneficence towards his friend, his country, or his fellow creature, in any circumstances that require his aid. It was nobly expressed by the three Israelites, in answer to the king of Babylon who threatened to cast them into the midst of a burning

ing fiery furnace, if they did not worship the golden image which he had set up: And who is that God, he said, "that shall deliver you out of my hands?" "We are not careful, they said, Nebuchadnezar to answer thee in this matter: If it be so, the God whom we serve is able to deliver us from the burning fiery furnace, and he will deliver us out of thine hand, O King; but if not, be it known unto thee, O King, that we will not serve thy Gods nor worship the golden image which thou hast set up". Here was a resolution expressed not in the confidence of escape or safety, but in the sentiment of a daring integrity which no menace could shake. And the benevolent is resolute when a friend or an innocent sufferer requires his aid, because affection or commiseration is more powerful than interest or even self-preservation. And the same virtue of fortitude may be known, though with less evidence and on slighter occasions, by the voluntary hazard of suffering, or inconvenience in the discharge of any duty whatever.

Intrepidity is tranquillity and presence of mind in the midst of danger. It is opposed to that perturbation of *fear* or *terror* by which the weak minded are disqualified to acquit themselves properly or to extricate themselves from the dangers in which they are involved. Without intrepidity, enterprise is rashness, and serves only to lead the feeble minded into situations in which they are not qualified to act.

As the intrepid continue to possess themselves or to have the use of their faculties in the midst of danger, intrepidity is not only an exemption from the sufferings of fear or terror, but is the best security also against the evils with which any danger is supposed to threaten. It enables the person alarmed to take the best

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measures for safety, or to employ the best and most vigorous means of resistance.

In proportion as we are ardent in the cause of our fellow creatures, we are less apt to be disturbed by considerations of inconvenience or danger that affect ourselves ; so much that a generous or tender affection is itself in some measure a principle of fortitude, and prepares the mind for a courageous discharge of its duty. The female parent, even in the most timorous species of animals, is observed to be bold and fearless in defence of her young.

*For the poor wren,
The most diminutive of birds, will fight
(Her young ones in her nest,) against the owl *.*

And it is under a sense of indignation at the commission of iniquity, or in the ardour of enthusiasm for the good of their country, that men are observed to make the greatest efforts of intrepidity and courage : In so much, that as fortitude is a necessary support in every virtuous enterprize, the consciousness of integrity, and a generous resolution, is the true incentive to courageous and ardent exertion of mind.

Patience may have a reference to any actual suffering from which there is not an immediate prospect of relief. The patient endures what cannot be helped without exasperating the sore with the fruitless irritations of a peevish and fretful disposition.

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* Shakespeare in Macbeth.

In the order of nature, and in directing the animals to the means of their own preservation, pain is employed perhaps with more power and efficacy even than pleasure. External causes that threaten to wound or to hurt, give warning by the infliction of pain: Diseases that announce the prospect of Death give an alarm in the same manner; and the suffering is made to increase while the danger continues, or is not to be removed but by a removal of the cause that annoys.

According to this general law of nature, no living creature is exempted from pain; but to acknowledge the beneficent purpose for which it is inflicted, and to employ the mind without peevishness or discontent, to obtain that purpose is a principal characteristic of that virtue of fortitude which we are now considering.

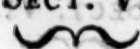
Patience in suffering, like intrepidity in danger, is the best alleviation of the evil to which it refers, and that which enables the mind to make the most successful efforts in obtaining relief.

The effect of pain in causing distress is in a great measure proportioned to the apprehension with which it is received. The timorous patient shrinks from the surgeon's knife before it has touched his fore, and has already suffered in imagination before the sense could be affected. The fearless on the contrary are hardy in bearing what they disdain to fear. The mind, it is well known, under any vehement emotion of affection or passion is insensible to wounds or pain, and even the distressed may be diverted from their sufferings by any object that warmly interests the

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mind. Patience therefore, we may believe, is greatly aided by an exemption from fear. And this virtue is impaired by melancholy or other peevish and fretful passions, even more than by any defect of firmness or strength in the animal frame.

Sentiment and occupation of mind, suspend the effect of mere sensation, while a certain vacancy of thought, and habitual indifference to objects that give any ardour to the mind, leave it entirely to be occupied by the slightest feelings of bodily sense.

To correct the soul therefore of its weaknesses, whether fear or melancholy ; to set the order of nature in its proper light ; to occupy the mind with this and other objects of a just affection, appear to be the proper means to strengthen it in bearing the inconveniences and pains to which human life is exposed.

Patience, it must be confessed, in many instances appears to be the gift of nature ; but in whatever measure it be given, it may still be improved by those who are sensible of its value, and who do not easily forego what they admire and wish to possess. The martyr and the hero are no doubt supported in seeming paroxysms of suffering, by the sense of honour they have attached to the part they perform.

Constancy is that force of mind by which we persevere in pursuits properly begun, or engagements properly made. It is opposed to wavering or unnecessary fluctuation of choice.

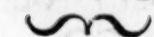
An ill choice ought no doubt to be corrected. But in order to prevent the necessity of change, proper caution ought to be employed before we form our engagements. There is a time for
deliberation,

deliberation, and then it is proper to give every consideration its due regard. A choice well made is the proper antidote to wavering and inconstancy, which proceed from the want of any fixt conception of the object at which we aim; and which constitutes a weakness of mind subject to disgust or weariness from any difficulty or disappointment for which we are not fully prepared. The inconstant are known to drop even the pursuits in which they are successful in order to exchange them for somewhat else, which they have not tried, and of which the principal recommendation is that of being new. They are of course by too frequent a change of their objects unable to effect any valuable purpose whatever.

To persist in our engagements is often a material article of justice, and a matter of right which the parties concerned are entitled to exact. To persevere without wavering or disgust in pursuits which are properly chosen is necessary to the success of them. For this reason, even if a better choice should appear than that which we have actually made, it is seldom wise to change a pursuit in which we have made any considerable advance, to begin another in which all our labours are again to be renewed.

But this virtue of fortitude, which lays the foundation of all the proprieties we have mentioned, whether, *resolution*, *intrepidity*, *patience*, or *constancy*, has a value in itself, independant of the purpose which it enables the person possessed of it to pursue and obtain. It is, in many instances, an exemption from suffering or an alleviation of pain. It opens the mind to the influence of its best affections, and gives it the possession of itself and its faculties on trying occasions.

Fear

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Fear next to malice is the greatest bane to the human heart; it is a state of suffering, degradation, and weakness, or a disqualification for the practice of any virtue. The coward is too anxious for himself to entertain any generous affection for others, and too feeble in his resolution to give any adequate effect to the purpose he forms. He is mean and abject in adversity, insolent in prosperity, and cruel in urging the effect of his jealousy or fears against any object of these passions, which he may have got in his power.

There are no conditions of the mind that appear more evidently in the person, than those opposite characters of a resolute and cowardly nature. The one bears the aspect of elevation, even in the retreats of modesty, or in the midst of adversity; the other is presumptuous, or abject, merely as the occasion gives or withholds the advantages of fortune, which he is ever ready to feel and to abuse. The prepossession of mankind, therefore, in favour of courage, and in contempt of cowardice is well founded in nature; the first no doubt may be abused, and the latter may serve on occasion to render men tractable and submissive to the powers by which they are governed; but, as we are not to reject a blessing merely to avoid the abuse of it, neither are to adopt a great evil for the sake of a trifling convenience.

Courage, it is true, may be abused; it is nevertheless, though not an absolute security against ill dispositions and vicious habits, an aptitude for all the nobler affections of the human heart, as well as a force by which the mind is enabled to support itself in the pursuit of its worthiest objects.

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We have observed, that a generous affection is in some measure a principle of courage; the converse also is true; the courageous, in proportion as they are secure upon their own account, have minds susceptible of a proper concern for others; and the benevolent become insensible of personal inconvenience or danger, in proportion as they are engaged in the exercise of beneficent affection towards their fellow creatures: Inasmuch, that the characters of generosity and courage are in their nature allied, and in their exertions mutually strengthen or confirm each other. Magnanimity is the joint result of both, it is the effect of goodness and probity, raised above the consideration of interests, of dangers, or sufferings, which are apt to embarrass the conduct of ordinary men. The magnanimous steer through impediment or danger, at which the ordinary pilot would lower his sails; they turn upon an enemy, from whom the ordinary warrior would retreat; they spare the vanquished, whom the ordinary victor would sacrifice to his fears or resentments; they commend an opponent, to whom an ordinary rival would not allow any merit; and that elevation of mind which they possess, is, at once, a principal foundation and a support of all the virtues.

The ingenuous, by aspiring to what is noble, is led to practise the virtues which constitute the excellence of human nature, and by his resolution and force of mind supports the efforts, and persists in the course of life into which he is led by his best dispositions.

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Concluding Observations.

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WE have thus, in pursuance of the method proposed at the outset of this work, attempted to state the actual distinction of man in the system of nature; his powers of discernment and choice; his pursuits and attainments, the progress he is fitted to make, and of which the direction and effect for the present is committed to himself; but of which the final termination is, we trust, far removed from his view.

We have inquired, how far any distinction of moral good and evil is manifest to such powers of perception as ours, and coincides with the distinction of enjoyment and suffering, of perfection and defect, of which our nature is susceptible; and last of all have considered in what form the distinction of good and evil should operate in the choice and external actions of men; from the whole of these facts and observations striving to evince, that, as there is in the frame of man a state of *Health, Strength, and Beauty,*

ty, eligible upon its own account; so there is in the form of his intelligent being, and in the pursuits of his active life, a scheme of *Wisdom, Goodness, Temperance, and Fortitude*, which, apart from any consideration of the past or the future, is in the present, and in every moment of his existence the preferable state of his nature.

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But in return for such labours as these, we may be told, that we only perpetuate the mistake which is common to many, who, in amusing themselves and others with such inquiries, have formed schemes of perfection, to be admired indeed; but far above the reach of mankind. That, as in our general account of perfection we far exceed what human nature is fit to attain, so in the detail of our precepts and rules, we would substitute a concerted manner, for the principles of benevolence and wisdom, which when present supersede the necessity of rules, and when wanting, are ill supplied by any ritual or external forms of behaviour: That in talking so much of virtue, we stand aloof from the world in which it ought to be practised, and assume the importance of wisdom in mere words and technical forms of expression. It was thus, we may be told that philosophers in antient times affected a language, a manner, and dress peculiar to their respective sects; and hung out the supposed colours of wisdom, with little regard to its real possession or use.

This charge may be true of many, and the error pointed out in it is a just object of caution to every one who would avail himself of the fruits of a scientific education, without incurring its abuse. The ancient sects in philosophy, have been likened to the modern sects of religion rather than to the varieties of opinion in matters of philosophy that have been entertained in modern times. Sectaries are ever ready to value themselves more on their profession of faith, than on their practice; and are

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fonder of any mystery or paradox they have adopted, than of the plainest and most important dictates of reason or good sense. We must not however confound under this censure those examples of sublime and accomplished virtue, which shone forth amidst the pretensions and ridiculous formalities with which philosophy in the persons of many of its professors may have been disgraced. It was in the reign of Aurelius, that Lucian gave loose to his satire on this subject, and it was by this philosopher, in return for his ingenuity, that he was protected and employed in the provinces.

It must indeed be admitted, that to erect philosophy into a profession, of which the votary is distinguishable from the rest of mankind, otherwise than by a superiority which good education may give in any department of life, and by a blameless or beneficent intercourse with other men, is to mistake its nature. In the school, and in our attempts to think comprehensively and justly, we are led into system; but in reaping the fruits of a culture thus applied to the mind, it may be expected that on every particular occasion we should acquit ourselves properly, without any formal display of our general knowledge. It were piteous indeed, to carry nothing with us from hence into the world, but formal pretensions and technical terms. To this the manners of the world are fortunately repugnant, and perhaps lead to an error in the opposite extreme, that of affecting indifference to considerations of virtue, which we inwardly and justly esteem. To talk of morality in the fashionable world*, is said to be quoting the ten commandments. And pretensions are so far from being received as merit, that persons of the most honourable nature do well to avoid any unnecessary parade of their principles or system of action.

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* Here the author alludes to what was a fashion in his own times, although it may now perhaps be changed.

A person who has learned his exercises, may be known by his carriage, without retaining the stiffness or formality of the school; and his movements, when most graceful, appear to be the effects of mere inattention and negligence. Nor need we scruple to carry this observation by analogy into the most serious considerations of a manly and beneficent life. Virtue itself is then most perfect, when it does not appear to have been learned or assumed as a merit; but is such as the person who practises it cannot depart from, even in the most negligent moments of life: This, however, we must not suppose to be the fruit of actual neglect or indifference to what is right: The master artist, in every instance, derives the accomplished freedom of his calling, not from the negligence with which he seems to practise it, but from an accomplished understanding of its graces, and a habit of correctness carefully acquired in practice: And the manners of an accomplished man in beneficence and candour, however little it may be necessary to display the system he has formed on these subjects, must not be entrusted to chance.

Perfection is no where to be found short of the infinite mind; but progression is the gift of God to all his intelligent creatures, and is within the competence of the lowest of mankind. There needs not the genius of Hannibal or Scipio to detect the false notion of happiness, of honour, or personal distinction, which mislead the fool and the coxcomb. Men of humble capacity may learn to think justly on these subjects: And as far as wisdom depends on a just conception of familiar objects, it is the nature of created mind in the course of experience and observation to improve its sagacity, and to make continual approach to the highest measure of intellectual ability of which it is susceptible. The

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world is far from being so unreasonable, as to expect from every individual the utmost perfection of which human nature is susceptible; nor of any individual, in every action of his life, a full display of all the good qualities of which he himself is possessed. But the virtue of goodness, whether operating in mere innocence, or in beneficence, is surely improveable, if not actually acquired by habit.

It is that which we commonly enough express in the distinctive denomination of a gentleman, when employed as a term of praise; it implies a certain caution to avoid what is hurtful, or offensive to others, liberality, and humanity, or attention to oblige, and to anticipate the wishes of the modest and unassuming. The conversation of gentlemen is accordingly a scene of satisfaction and ease, not of strife, and competition for superiority: And this we impute to their breeding, and to the lessons of a dignified rank, not to any original difference of disposition or temper.

The attainments of men are actually unequal, and the individual differs from himself, at different periods of his life.

Whether the inequalities of men, as some have alledged, may be traced to mere casual circumstances, engaging them in different efforts and pursuits, may be left undetermined. Or without venturing an assertion so little susceptible of proof, we cannot doubt, that if the same person differs from himself at different times, it is in consequence of the efforts he makes, or neglects to make, and of the habits of thinking or of acting he has formed. Good offices conciliate the minds of men; and to have lived with the beneficent and the candid, tends to inspire benevolence and candour.

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It is a vulgar observation, that we are inclined to love those on whom we have conferred a benefit, more than those from whom we have received one. And the interpretation of this fact is somewhat malicious; to wit, that we are more tenacious of the obligations we have laid upon others, than of those which have been laid on ourselves. But in whatever way it be understood, the fact is important. Every one has it in his power to do a good office, though not always to receive one; and according to this observation therefore, has that in his power which is most effectual to his own happiness, or the goodness of his own dispositions.

Fortitude and temperance grow upon the mind, in the continued practice of these virtues. The veteran becomes calm in the midst of a hardship, or danger, to which he is accustomed. And the strenuous mind, in any worthy pursuit, becomes superior to the allurements of pleasure, or the languors of sloth.

We have thus, on the supposition of an improveable nature in man, endeavoured to specify what he has to wish for himself, for his friend, and for mankind. And the model proposed for him cannot be improper, if it lead him to shun any evil to which he is actually exposed, or to attain any good which is placed within his reach.

It still remains for a subject of separate inquiry, to consider *what the citizen has to wish for his country*. And what is that public good, which in every community ought to be the object of political institution, and which, when obtained, ought to reconcile every individual to his state in society, whether it be his lot to govern, or be governed.

C H A P. VI.

O F P O L I T I C S.

S E C T I O N I.

Introduction.

WE have already considered society and government, or national establishments, in respect to their origin and their progress, we are now to consider them in respect to the good and evil of which they are susceptible, or the comparative advantage in respect to which they are unequal.

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I

Under

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SECT. I.

Under this notion we may treat of *Population, Manners, and Wealth, of Civil and Political Liberty*, with all its accompaniments in raising the character and genius of a people.

Opinions on the subject of public, no less than of private good are of much importance to mankind. As error and mistake, relating to the one, involve the mind in folly, suffering, and disappointment; so, in relation to the other, they would involve whole nations in disorder and riot, or in scenes of degradation and oppression.

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Of the People considered in Respect to Numbers.

THE goodness of God is manifest in the form and extent of his works. Of these, so far as they are known to us, the most excellent is man, exhibiting the effects of Divine Goodness in the multitude of his species, and in the laws of nature, which are established for their preservation, accommodation and increase.

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The number in which we should wish mankind to exist, is limited only by the extent of place for their residence, and of provision sufficient for their subsistence and accommodation; and it is indeed commonly observed, or admitted, that the numbers of mankind in every situation do multiply up to the means of their subsistence.

To extend these limits is good; to narrow or contract them is evil; but although the increase of numbers may be thus considered as an object of desire, and although we may wish, in every

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instance,

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instance, that the people should multiply, yet it does not follow, that we ought to wish the species thus indefinitely multiplied, to be united also into one and the same community.

The formation of families, and the continuance of their members together for a certain time, are physically necessary to the preservation of the human race; but the union of numberless families into one society, is so far from being equally necessary, that the number of families so united may be reduced indefinitely, in a perfect consistence with every advantage of the mere social life.

But nature, in giving to man the highest place in the scale of active existence has multiplied the occasions on which he is to exert both his animal and his intelligent powers. Besides the physical wants and necessities, which are left for him to supply, besides the advantages which are left to be gained by his industry and his application, the very vices and follies incident to one part of the species, create employment for another, and the divisions of men mutually furnish objects of caution, and occasions of action, from which no part is exempted, and on which every separate society must regulate its establishments, and estimate the value of its numbers.

Mankind are exposed to dissention and quarrels, whether from the influence of irregular passions or mistaken apprehensions of right and wrong. And as the possibility of discord and war is thus entailed upon human nature, no nation, however inoffensive in its own purposes, or however wise in its measures, is entitled to think itself exempted from the common lot of mankind; or

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to suppose that its rights are safe without the precautions that are necessary to secure them.

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In this point of view, we may consider the increase of the human species not only as an object of general benevolence, but as a matter of expedience also in the case of every particular state. We may wish that our country should be populous; or increase in numbers indefinitely, the better to sustain the national contests in which they may be engaged.

In every nation, the people may be considered in two respects.

First, as forming the object for whose sake the society is instituted, and for whose sake it ought to be preserved.

And next, as affording the means by which the society is so formed and preserved.

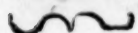
In the first point of view, *-Salus populi, suprema lex esto,* is the fundamental principle of political science. If the people be happy, we have no title to enquire to what other purpose they serve, for this itself is the purpose of all human establishments.

At the same time, the people may be considered as the strength and support of their community; and although, in the first point of view, every interest is subordinate to theirs, yet in this second point of view, they must accommodate themselves to the interests of state; and if there be any paradox in this manner of stating the subject, it arises from our considering the end of political establishments, and the means of obtaining that end, as separate or distinct, whereas they are in this case the same.

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Establishments

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Establishments are meant for the good of the people, and the people also serve to support their establishment. The greatest measure of happiness bestowed on the people, is that by which they are the means of making a happy community; and if the members of a community accommodate themselves to what is best for the state, this is no more than to be, and to do, what is most for their own preservation and welfare.

If the citizen on occasion must submit to personal hardship for the benefit of his country, such in fact is to him the occasion on which he is to reap the happiest fruits of his nature, magnanimity, benevolence, and fortitude. It is good for his country to be safe, and it is still more so for him to be an instrument in obtaining that safety. If it be the lot of the vine to bear a fruit for its owner, fertility and abundance of clusters is the prosperity and beauty of the plant that comes so loaded to the vintage.

The people considered as the vital blood of a nation, if they are fitted by their character to supply that part, have a value proportioned to their numbers; or if the numbers be given, we are to estimate their value, from the measure of life and of strength, which they bestow on their country.

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SECTION III.

Of the Manners, or Political Character of the People.

WE are not under this title, to repeat the general descriptions of virtue and vice. These we observed, may operate in any situation, or on any materials: They may operate in public or in private life, in prosperity or adversity, respecting matters of *property* or *estimation*, matters of *private* or *public concern*.

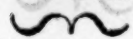
To distinguish the political from the moral character, we must recollect, that although a man may be virtuous or vicious in any situation, and conversant in any materials, yet there are, in relation to circumstances and manner of life, certain habits which enable those who are possessed of them to give to their virtues the proper effect in their particular case, or in the treatment of matters, in which they are particularly concerned. A scholar or a merchant, may be each in his way a person of great sense and integrity; but the one is not therefore qualified for a counting room, nor the other for a place at college. Where habits proper to the political state are ob-

tained,

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tained, they constitute the value of a political character ; or where the people are by contrary habits disqualified to maintain the political form of the community, or to pursue the objects of state ; their numbers may be great, but they are not of proportional value to the nations they constitute.

I may be observed, that mankind in the result of the political arts to which they are led by the exigencies of society, arrive at different establishments, whether simple or mixt. They are led by their situation also to pursue a variety of objects, in which the pacific or military arts may prevail, and the estimable character of the people in the political point of view is their fitness to reap, to preserve, and to improve the advantages of their own institutions ; and to support their country in pursuit of its respective objects. Under establishments, therefore, in which the people are differently governed, or have formed themselves into a governing power ; and in nations differently occupied, whether in commerce, or war ; and engaged in the practice of specific arts, whether lucrative or liberal, suitable habits, though various in different instances, give to the people a political value proportioned to their numbers.

In states of a democratical form, and small extent, where the people may be destined to govern and to defend themselves, the habits of the statesman and the warrior are required as ordinary accomplishments of the citizen ; and the individual is entitled to estimation, only in proportion as he possesses these habits. Authority and power are entrusted in the hands of particular persons, but every citizen equally retains his claim to such occasional trust. There is a spirit of equality therefore, an attention and

zeal for public concerns, which make an essential part in the habits of such a people.

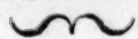
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If the citizen under a democratical government submit to resign his pretensions, he betrays the right of every other person in the state, while he surrenders his own. If he aim at any ascendant, or superiority of fortune, different from the effect of superior ability and virtue, his pretensions become inconsistent with public order and safety.

In proportion, therefore, as we suppose individuals in such instances not qualified to preserve their station, not disposed in their turns to obey without meanness, and to command without insolence; the community, instead of increasing its strength by multiplying its numbers, actually tends to its ruin. Want of numbers might expose such a state to be overwhelmed by an external power; but the want of a fit character, in public spirit, ability, and vigour, prepares the state from within for immediate subversion, as a fabric is prepared to tumble or fall into ruin by the weakness or decay of the parts that compose it.

The manners of men may vary without inconvenience in republics of a different description. In aristocratical or mixed government, for instance, certain casual or hereditary distinctions of fortune being admitted, the inferior may yield and the superior assume a comparative advantage in perfect consistence with the order established. Nay, in proportion to the inequalities acknowledged, there is a habit of the person fitted to the rank, and in every condition a suitable character or manner. The habits of station are necessary to qualify the citizen to sustain the part which is assigned to himself. Elevation and dignity are suited to the rank in persons of
one

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one condition, deference and respect are suited to the rank in those of another; and without suitable distinctions of character different orders of men would be disqualified for their situations, and a community so made up of discordant parts would be unfit to maintain the establishment in which the public order consists. The utmost to be expected among citizens in this state of disparity is that the superior should, by his noble qualities, merit the respect which is paid to him; or earn the returns of affection and gratitude by the good he performs.

Under monarchies, whether absolute or mixed, the scale of subordination may be farther extended; or the extremes of high and low much farther removed from each other than they are in republics of any sort; while the interval between these extremes is filled up with many slow and insensible gradations. Under such institutions, accordingly, equality may be altogether unknown; the habit of individuals may be in every instance either to yield or to assume a superiority. And these habits of subordination, of precedence, or deference, are necessary to give the people their value in the different ranks they are destined to hold.

Under all or any of these varieties, a people disqualified to preserve the political form of their country, nobles without beneficence, elevation or dignity, inferiors without respect or submission; instead of giving national strength proportioned to their numbers, would prove the immediate source of weakness, or lead to revolutions of uncertain or dangerous issue.

But while we thus contend for propriety of manners adapted to the constitution of state, it must be observed, that, if there be

be any political establishment raised upon a plan of injurious usurpation on the part of those who govern, and proceeding upon a debased and abject spirit of submission on the part of those who are governed, it were absurd to ascribe any merit, under the notion of a political value, to the habits which might be required to preserve such a system. The form itself we must consider as an abuse or a calamity, and for the sake of mankind must contend, that manners suited to preserve it are evil. That manners, on the contrary, which dispose the people to revolt, and overthrow such governments at the expence of any temporary hardships, are necessary to obtain or restore the blessings of national peace disturbed by the continual, though unresisted wrongs to which the subject is exposed.

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This description is perhaps too nearly verified, where the relation of sovereign and subject is conceived on the models of master and slave, where the one is conceived to be a property and holds his possessions and his life, not upon conditions that may be supposed merely unequal; but without the observance of any condition at all, and at the will of the other, by whom the discretion is frequently abused. The value of the people, in such instances, is to be estimated from their qualifications to repel such pretensions, and from the energy with which they recur to a form more consistent with justice and the good of mankind.

Amidst the varieties of political character, nations differ also in respect to the objects on which they are chiefly intent: One nation is intent upon commerce, or busied with the arts of subsistence and accommodation: another has its existence to contend for at the edge of the sword, is therefore intent upon the arts of war, and the advantages to be gained or lost in the contest with its neighbours

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bours. In either case, the fitness of men to promote the prosperity, or to watch over the safety of their country, is an essential circumstance in estimating the political value of their numbers.

Commercial nations have not any interest in the increase of population, except in so far the people are industrious, or possessed of some profitable art. The idle, the profligate and the prodigal become, in proportion to their numbers, a source of public distress and calamity.

Warlike hordes, on the contrary, would multiply warriors, not traders or pacific inhabitants. The Romans, in the first state of their principality or republic, hastened their population by the indiscriminate admission of strangers to a participation of all their political rights. They had no occasion to make any selection of those, they were to admit on the rolls of their people; for all the hordes in their neighbourhood from which their numbers could be supplied were warriors like themselves, and every accession to their number from the nations around them, was an addition to their military lists.

While states are thus intent upon any particular object, they appear to estimate the character of their people upon a partial model; and so far, no doubt, it is partial as they limit their notions of virtue to the transactions in which they themselves are engaged, or to the forms according to which they themselves are accustomed to proceed: But to such partialities we must submit in estimating the comparative merit of nations, and in judging of the lustre which individuals may have cast around them in their respective

tive ages. Human nature no where exists in the abstract, and human virtue is attached, in every particular instance, to the use of particular materials, or to the application of given materials to particular ends.

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SECTION

## S E C T I O N IV.

*Of the Wealth of the People.*

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WE may consider national wealth in respect to the purpose it serves, while in the possession of the people; or in respect to that which it serves, in the form of a revenue to the state employed to defray public and national expences of government, defence, or chargeable institutions of any sort.

Wealth, as it may be referred to the first of these purposes, and is in the possession of the people, is the subject of this section; as it may be referred to the second purpose of revenue to the state, will be the subject of that which follows.

The first and most essential purpose of wealth is the subsistence and accommodation of useful men; and its value is to be estimated from the numbers it will serve to subsist and accommodate;—furnishing, at the same time, the means of lucrative enterprise for the accumulation of more wealth, or the reproduction

duction of that which is necessarily consumed. These are purposes which it serves best, not in the coffers of the state, or at the disposal of those who are supposed to act for the community, but in the management of the frugal and industrious proprietor; or laid out on the principle of private interest, and with a view to private gain.

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In respect to national wealth, states may rate their prosperity, not so much by the sums they are enabled to levy in the form of revenue, as by that wealth which, in consistence with public service, they are enabled to leave in the hands of the industrious citizen. In his hands it is employed to its best uses, the rearing of a family, the establishment of manufacture, the purchase of materials and other articles, in the outlay of a lucrative and prosperous trade.

The constituents of wealth are more or less quickly consumed in the use. The fullest granary and the amplest store of commodities are, within a limited period, exhausted in the consumption of a people; and their wealth is to be estimated, not from the state of their magazines or stores at any particular time, but from the sources of reproduction and continual supply, by which the abundance they enjoy is increased or perpetuated.

The source of supply which nature has provided for man, in any given situation of climate or soil, is labour. Without this, in respect to him, the land is every where barren, and materials of every sort are too rude for his use. The wealth of the citizen is measurable by the quantity of labour he can employ. If he can command the labour of others, he may dispense with his own; but, to enable one person to obtain the labour of another, it is

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necessary that the one should be able to pay the hire of that labour; and that the other should be in need to receive that hire.

If all men were equally rich, every one might be willing to pay the hire of labour, while no one would be willing to labour for hire: But, as labour is necessary to supply the consumptions of life; on the supposition of equal riches, every one would be reduced to labour for himself; and thus a supposed equality would reduce the fortune of every person to the fruit merely of his own labour, and, in fact, would be to render every person alike and equally poor.

The antient republics, amongst whom it was proposed, in some instances, to equalize the fortune of citizens, had recourse to the labour of slaves, and the object, without this provision, would have been altogether chimerical and wild.

Nature seems to have ordered, that, in proportion as men shall depart from their original poverty, they shall depart also from that original state of equality, in which it was necessary for every individual to labour for himself.

The unequal capacities and various dispositions of men; covetousness and frugality, in one; neglect and dissipation, in others; unequal ability, application, and success in the practice of the lucrative arts, have ever, in the progress of wealth, been accompanied with a distinction in the fortunes of men; so that, while some are in a condition to command the labour of many, others remain without any other possession than the immediate fruits of their own.

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From a difference of fortune there results a difference of estimation and rank; and to those who would emerge from the lower station, there is a motive of ambition joined to that of necessity, in promoting the practice of arts: So that nations who are forward in the accumulation of wealth, proceed in it with a double ardour from the effect of advances they have already made; and thus owe, in a great measure, to the inequalities of fortune, what sprang originally from necessity, the application of that labour by which articles of consumption are reproduced, and the sources of wealth are enlarged.

In this state of unequal fortune, one man has the means of projecting and executing a lucrative enterprise; numbers of others feel the necessity of committing their labour to his direction; and what he gains, even while it remains in his own possession, goes into the mass of national wealth.

Skill, experience, and a sleight in the application of labour, contribute greatly to the success of it, or to the accumulation of its fruits. To promote these advantages, the division and the subdivision of tasks are highly conducive: A person who has to work but in one single material, will soon come to understand his department better, than if he had to do with a number of different subjects that would tend to distract his attention, and embarrass his thoughts. Whoever operates but to one single effect, and obtains that effect by repeating without variation one single movement of the hand or the foot, will become master of his task in a shorter time, and will practise it with less interruption, than if he had to pass through a variety of operations; were obliged frequently to change his tools; and at every successive part of his work were required to practise a different species of skill.

Among

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Among the circumstances, therefore, which were formerly mentioned, as attending the progress of commercial arts, none is of more consequence to their advancement, than the separation of callings, and the subdivision of each into a convenient number of different branches. This lessens the difficulty of every apprenticeship, and greatly increases the produce of any given number of hands. A fit assortment of persons, of whom each performs but a part in the manufacture of a *pin*, may produce much more in a given time, than perhaps double the number, of which each was to produce the whole, or to perform every part in the construction of that diminutive article. But to this separation of tasks, as well as to circumstances in the original lot of man, it was observed, that *commerce*, or the exchange of commodities, was necessary. A person who performs but one species of labour, and obtains what is not the whole or perhaps is not any part of his own consumption, must have a facility in exchanging what he has produced for the other commodities which his occasions require, but which he is not equally in a condition to fabricate for himself.

With the benefit of commerce, or a ready exchange of commodities, every individual is enabled to avail himself, to the utmost, of the peculiar advantage of his place; to work on the peculiar materials with which nature has furnished him; to humour his genius or disposition, and betake himself to the task in which he is peculiarly qualified to succeed. The inhabitant of the mountain may betake himself to the culture of his woods, and the manufacture of his timber; the owner of pasture lands may betake himself to the care of his herds; the owner of the clay-pit to the manufacture of his pottery; and the husbandman to the

the culture of his fields, or the rearing of his cattle : And any one commodity, however it may form but a small part in the whole accommodations of human life, may, under the facility of commerce, find a market in which it may be exchanged for what will procure any other part, or the whole : So that the owner of the clay pit, or the industrious potter, without producing any one article immediately fit to supply his own necessities, may obtain the possession of all that he wants. And commerce, in which it appears that commodities are merely exchanged, and nothing produced, is nevertheless in its effects very productive ; because it ministers a facility and an encouragement to every artist, in multiplying the productions of his own art ; thus adding greatly to the mass of wealth in the world, in being the occasion that much is produced.

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In trade, the profit of one is not, as sometimes supposed, necessary loss to another ; or rather, commerce being the exchange of what may be spared for what is wanted, and this a mutual convenience to all the parties concerned, is equally gain and profit to all.

The principle of trade is private interest, the farthest possible removed from public spirit, or any concern for a common cause ; yet, so far as wealth, in the possession of the people is a benefit to the state, private interest in trade operates with the least erring direction for the public benefit, and is secure of its purpose, where public councils would mistake or miss of their aim.

The trader, no doubt, may err in the pursuit of his gain ; but the principle from which he acts is so exquisitely sensible to the experience of profit or loss, that the lessons of that experience

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seldom need to be repeated: The first loss is sufficient to correct the error of the trader, and he runs with irresistible avidity wherever it appears that profit is to be made. The state may do much to protect, or even to aid him, but not in the way of exciting his ardour, or in directing its application.

It is a primary object of government, on this and many other accounts, to secure the property of its subjects, to protect the industrious in reaping the fruits of his labour, in recovering the debts which are justly due to him, and in providing for the fair decision of questions that may arise in the intercourse of trade.

For the encouragement of commerce, in particular, it is wise to facilitate communications by commodious high ways, inland and sea navigations, and every other conveniency that tends to lessen the difficulty of removing commodities from the place in which they are produced to that in which they are wanted. This is the principal aid which commerce requires. Ministers of state have had their predilections; some for manufacture, others for agriculture; some for foreign, others for domestic trade, and it is not uncommon to imagine, that either is profitable only in proportion as the commodity of the merchant brings money, or silver and gold in return.

In speculation we wish to simplify our objects, and would propose to set the whole machine of human life in motion, by touching some key, or by pulling a particular string. Some would encourage manufactures, in order to furnish the husbandman with a ready market for the produce of his farm; and take this way to encourage the culture of land. Others are inclined to adopt the

the converse of this expedient; or increase the produce of land, in order to feed the manufacturers at a cheaper rate: At the same time, it is evident, that, if the state can procure any special aid or instruction to either, that this aid ought to be directly applied where it is supposed to be of use, and not left to wait the recoil of encouragement or instruction from a different quarter.

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Errors of administration are still more pernicious, as a late ingenious author has fully demonstrated \*, where, apart from any consideration of public safety, they tend to check one article of trade in favour of another, or act upon a principle of predilection for exportation or importation, in preference of one to the other.

With respect to the comparative importance of the home and foreign trade, it is evident, that a person having a redundancy of any commodity, and not able to find what he wants in exchange for it, in the dwelling of his nearest neighbour, must go farther, and even if necessary to the territory of a separate sovereign.

A market that is not to be found in the neighbouring village may be found in some city or district at a distance; and a commodity which can neither be produced nor vended in one latitude, may be produced or find its market in a different one. If in the search of this market, the trader is led to the dominions of a sovereign different from his own, he is said to go into foreign trade. If all the parties live in the territories of the same sovereign, the commerce between them, however remote from each other, is still domestic or internal. But this circumstance, it should seem, does not affect the preference to be given to one branch of

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trade

\* Smith on the Wealth of Nations.

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trade over another, farther than as a preference is due to the nearest and readiest market, as being attended with the least expence of labour or carriage, and the least delay of returns.

It is evident that, where a redundant commodity cannot be disposed of at home, the producer is interested to have it carried abroad, or presented wherever he can find a market; that, where the commodity he wants cannot be obtained at home, he is interested to have it from abroad, or from whatever quarter it can be procured. But the necessity of foreign commerce, in either way, may diminish as the territory of the state extends; so that small states may be in continual need of commerce with foreigners, while great empires, like the globe of the earth itself, have a sufficient range for every species of trade within themselves.

Where silver and gold, or money, is more wanted than other commodities, commerce will naturally take its direction to the quarter in which these are to be had in return; but, where other commodities are more wanted than gold or silver, these will be sent for a supply of the more pressing necessity; and there would be no profit in retaining them if other commodities are more useful than they are.

One article of policy connected with commerce, and in which the authority of state is supposed to be necessary, is the essay and coinage of money, to serve as a standard of valuation and medium of exchange. Commerce may originate in what is termed *barter*, in which the parties mutually give and take the articles which they have to spare, in exchange for those they want. The husbandman may have given his measure of corn in exchange for the yard of the manufacturer's cloth, without any standard  
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of valuation besides what is affixed by the want or exigency of the several parties. Even where the parties in trade recur to a particular commodity as a common standard of valuation in their various transactions, they may themselves estimate the quantity and quality of the standard, as well as that of the commodities they are to appreciate by a reference to its value; but many inconveniences are avoided by selecting the precious metals as the standard of valuation, and still farther inconvenience is avoided by the just interposition of government to ascertain, by a mark of public authority, the fineness and quantity of the species which is to pass in circulation. This is the object of coinage, and a principal article in the policy of nations, relating to commerce or the operations of trade.

It is well known that even the precious metals, however fitted to represent a great value in small bulk, nevertheless may become too unwieldy for quick circulation, and for repeated transfers of property, when the transactions of commerce come to be widely extended, and great remittance of money required in payments. That, in this case, where public or private credit is sufficiently established, promissory notes, or obligations to pay, may pass through many transactions, and for a time supersede the necessity of actual payment, while the money lies ready to answer the demand, at the place from which the promissory note was issued.

In this matter, it is a sacred object of policy to keep faith with the creditor; and, where the credit of state is interposed, and to give ready protection to the citizen where any abuse in the circulation of paper or promissory notes can be dreaded.

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Here then, or in respect to the accumulation of wealth, we may venture to rest the estimate of national felicity: First, on the labour of the people, or the degree in which that labour is productive; next, on the species of commodity produced, and its fitness to subsist and accommodate the greatest number of valuable citizens and useful hands; and, last of all, on the freedom of trade, and the equal protection given to the people in every branch of commerce unrestrained and unforced, with this single exception, that where in the course of trade advantages may arise, or inconveniences be incurred, respecting the safety or defence of the commonwealth, in every such case, safety is to be preferred to profit; and the public defence being a primary object of public attention, and an object for which states must be prepared to incur indefinite expence, it is an object for which also they must be willing on occasion to forgo their profits, and to embrace the less profitable branch of trade in which men are formed for the public service, in preference to the more profitable branch in which this advantage is not to be obtained. Hence the wisdom of encouraging seamanship in maritime nations, and the wisdom of guarding, in every state, the manners of a brave and ingenuous people, in preference to their numbers or wealth.

## SECTION

## S E C T I O N V.

*Of the Revenue of the State.*

THE wealth of the people, according to the observations of last section, like other articles in the system of nature, is a fluctuating quantity, continually perishing, and continually reproduced. Its sources are the labour employed in agriculture and manufacture. Its issues are the consumption made by the people, and the expenses incurred by the state. Its increase or diminution depends on the proportion which the supply bears to the waste or consumption.

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The first and principal use of wealth is the subsistence and accommodation of the people: But there is another, if not included in this, at least necessary to obtain its end; the support of government in the discharge of its necessary functions, as in dispensing the law, in preserving the peace at home, in guarding against danger from abroad, or in any other object of administration calculated for the general benefit of the community.

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In what manner a public revenue is to be constituted for these purposes is matter of very important concern. It is understood to come into the management of those who are intrusted with government, and is that on which the spirit of liberty has most cause to be jealous; in which the supposed interests of the governing and the governed are soonest at variance; and in which the tyrant has most immediate occasion to abuse his power.

In rude and barbarous hordes, numbers of men appear to be united merely as making up the train of a leader. Whatever be their pursuits or resources, the leader is supposed to preside in the one, and to enjoy a principal share of the other.

In the first wars of the Romans, every citizen kept the field at his own expence, or served the public from the same stock with which he supported himself and his family. If the leader, in conducting the public service, incurred a greater expence than any of his followers, he was enabled to discharge that expence by means of the same advantages which procured him the ascendant he enjoyed. And in his case, to employ the spoils of one enemy, in waging war with another, was at once to have a public revenue, and to be entrusted with its application.

In the first distribution of property, individuals are likely to share in proportion to their power. The leader or sovereign of the community, together with his power, has a claim to what may enable him to support his rank, and to discharge its functions; and the demefne appropriated to him is understood, at the same time, to be his private estate, and the revenue of the commonwealth.

Some

Some republics, as well as principalities, have had part of their public revenue constituted in subjects reserved for the community, or set apart from the property of any individual, for this purpose. Such were the mines which were wrought for the state of Athens; the pasture lands of Campania, and other subjects which were let for the republic of Rome.

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The kings in Europe have their forests or demesne lands, which are so many remains of the funds from which the state of a feudal sovereign was maintained, as that of his vassals was supported from their respective fiefs.

In the progress of nations, however, the demesne of the sovereign has been found still less and less adequate to the public expence. While other subjects of property in private hands are improved or rendered productive; the royal forest in their neighbourhood continues to be waste; and government, taught to rely on other and more copious resources, has long considered the demesne of the sovereign as a mere article of state and pleasure to the prince, or as the means of liberality towards those in his favour.

As private interest is the great principle of lucrative arts or accumulation of wealth, it is material to the prosperity of nations, in this article, that every subject susceptible of improvement should be appropriated or pass into private hands, who may turn it to the highest account: Inasmuch that the idea of a public demesne, as men advance in skill and industry, is justly exploded, or exchanged for a contribution, or taxes to be levied from the labour or estates of the people.

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It is just, and in every community matter of tacit, if not of express agreement, that every one who partakes in the benefit of a public establishment should bear a part in the expence it incurs. On this principle is founded the obligation of the subject to contribute his share to the revenue of the state; and, on this principle, a revenue wisely constituted may, in the progress of national wealth, without any public oppression, be made to keep pace with the growing exigencies, the growing numbers, riches, and frugality of the people.

Taxes, for this purpose, may be laid in different ways, and follow the rates of property in different subjects and effects.

They may be laid in the form of assessment on the rents of land, or other sources of private returns: They may be laid on goods as they pass in commerce; or they may be laid on articles of consumption in the actual use.

In judging of the absolute or comparative expedience of taxes diversified in any of these ways, the following maxims may be assumed.

First, That the real exigencies of the state are to be provided for at any hazard or expence to the subject. The interests of the state and of the people, when well understood, are the same. The first interest of the people is that every one should be protected; and the first interest of the state is, that it should be in condition to afford protection. Whatever may have been in fact the origin of government, upon this principle alone, the solicitude with which

which it is administered, and the respect that is paid to it by the people are founded.

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Secondly, it may be assumed, That the private estate of the subject is in no case to be unnecessarily taxed, under pretence of a public concern. The establishments of a great people may contain a variety of departments, and lead to applications of revenue useful and proper, in a variety of different ways; but beyond these limits, it is evident, that, to tax the people were to rob them of their property, to take from industrious hands what may go into the hands of the prodigal; or, instead of a source of farther wealth to the community, prove an occasion of abuse or a waste, for which the commonwealth is to receive no compensation or supply.

In the third place, it may be assumed, That, as it is a principal object of government to secure the property of the subject against every invader, care should be taken, in the form of taxation, to fix the limits of public exaction, so as no way to impair the security of the subject, in the possession of what he has left; that, while he is required to contribute a part of his labour to the public expence, the extent of this demand should be well ascertained, and no admission be given to arbitrary impositions, which might render the fortune of the subject in any degree precarious. It is in the confidence of a security of property that the labourer toils to obtain it, and chearfully contributes a part of his gains to ensure the remainder.

It is difficult to obtain security on this point wherever the sovereign, conceiving his own interest as distinct from that of the people,

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people, is at the same time empowered to impose taxes by his own prerogative, and without their consent.

A prerogative of this extent, wherever it be lodged, whether in the hands of a monarch, a senate, or democratical assembly, except so far as bodies of the two last descriptions are supposed to tax themselves, is not consistent with the liberty of those over whom it is exercised. In a monarch, it leads to the despotism of one; in a senate, to the despotism of a few; and, even in a democratical assembly, when exercised over subject-provinces, is the despotism of many; and, for this very reason, is the more oppressive and the less restrained, than it is in either of the two former instances. Thus the Athenians oppressed their allies, or smaller states in dependance upon them, under pretence of exacting the quota of each in support of the common cause; and the Romans, while they exempted themselves from taxes, suffered their provinces to be oppressed with every mode of vexation.

In the fourth place, it is evident, that no tax should be laid on in such a manner as to drain the source from which it is derived. The labourer ought not to be interrupted or disabled in the performance of his labour. The trader ought not to be robbed of his stock; nor the landholder dispossessed of his land. Each may be required to contribute a part of his returns; but this should be done in perfect consistence with the safety of that subject from which his returns are derived.

In the fifth place, it may be assumed, That not only every real grievance, but every apparent one also, and whatever is likely to be felt as such in the imposition of taxes, is to be avoided.

The

The public and its members ought to be considered as parties in the same common cause, and sharers in the same common adventure. It is the interest of the state, that it should be cheerfully served and supported; that nothing should take place in the exactions of revenue or of public service which has a tendency to alienate the minds of the people; that, in the choice of taxes, those ought to be preferred which are least likely to be felt as a grievance. For this reason, probably, the most prosperous states have indefinitely varied the forms of taxation, so that by raising some part, though not the whole, from any particular quarter, they have avoided laying a burden to be felt as a grievance, upon any particular class or order of the people.

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Customs fall ultimately upon the consumer of the goods for which they are paid. Perhaps all taxes fall ultimately upon those who may themselves be made to pay, but who have not the means of recovering any part of what they have paid, by imposing any terms for that purpose upon others. Whoever lives on his rent, and buys every article of consumption, without having ought to sell, comes under this description. It is contended, therefore, in speculations on public oeconomy, that taxes of every kind, however immediately constituted, fall ultimately on the produce of land. This is probably a mistake; for every other person that lives on a taxable income, and by the consumption of taxable goods, without having any to sell, must bear a proportional part of the burden, as well as the person whose rent is from land. But, even if the reverse were admitted, it would be far from expedient to apply to the landholder directly for the supply of a whole revenue to the state. Were this measure to be taken, the whole burden would apparently, as well as really, lie upon one class of

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the people; and even if the load should continue to be supported by this class, it would nevertheless, from its immediate pressure and apparent partiality, be considered as an insufferable grievance, and become a continued source of complaint.

It is material, therefore, in conformity to the maxim now stated, that taxes, wherever they may ultimately fall, should be diversified in respect to the subjects taxed, and the tax gatherer have immediate recourse for payment to all orders of the people, that the whole may, at least in appearance, if not in reality, bear a proportional share of the burden.

In this manner, and through a succession of ages, a revenue of the greatest extent may be raised gradually and almost insensibly, so as scarcely to occasion any complaint of a grievance but from those who industriously speculate on the whole amount, and indulge apprehensions of what may be the ultimate result of its progress.

The policy to which this maxim refers has been adopted by sovereigns of almost every description, whether they meant to charge their people with heavy burdens in the most artful manner, or to provide for the real exigencies of state in the manner that would be least felt as a grievance. This consideration, while it may influence the choice of a tax, ought to influence also a choice of the manner in which taxes are to be levied, or made effectual, with the least cause of complaint on the part of the subject.

Taxes, we suppose, may be levied, either by officers in the pay of the public, or by persons who farm the revenue at a determinate

nate rate. In general it has been observed, that taxes let to farm are more oppressive than those which are levied by public commission or revenue officers.

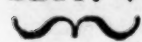
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It is not difficult to perceive whence it should arise, that a revenue let to farm is more oppressive than one that is collected by officers in behalf of the public. A farm of revenue is commonly let to the highest bidder. The sovereign stipulates for a certain sum to be paid into the public coffers, without any risk from the negligence or failure of those who are employed in the collection, or from the insolvency of those from whom it is due. The farmer rents the subject but for a limited period; and acts in that period under the impulse of a temporary interest, and at the hazard of exhausting the source of future revenue, while he reaps the present. He naturally proceeds with the illiberal severities of a private concern, having in his view to obtain some adequate return for his risk and trouble, as well as to make up the sum he is bound to pay to the state. His concern in the matter is temporary, and he labours to make immediate gain for himself, however it may affect the permanent interests of the public. He calls upon the sovereign to support his exactions, under pain of suffering him to fail in performing his engagements; and, under this pretence, the public authority is of course employed to enforce the vexations of private rapacity.

Where, on the contrary, officers are employed with fixed salaries, to collect the duties which are required by the public, these officers being restrained from exacting more than the public has imposed, and though called to a strict account of what they have received, answerable only for the diligent and faithful discharge of their

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their own duty, they are not interested to urge the public exactions to any cruel or oppressive extent.



Taxes are of different denominations, taken either from the subject on which they are imposed, or from the manner in which they are levied. They may be reduced to five titles, *capitation*, *assessment*, *monopoly*, *customs*, and *excise*. The two first are exacted from the person or the estate of the subject; the other three are exacted from commodities in sale or consumption.

Capitation is a tax on the person, and when not modified by any distinction of poor or rich, is supposed to fall equally on both. This may be the first rude device of an arbitrary master, who, not being willing to embarrass himself with distinctions, would arrive at the end of his government in the shortest way \*. It were absurd to exact no more from the rich than the poor can pay. And it would be cruel to extort from the poor as much as the rich may without inconvenience afford. Capitation were in either way unjust and impolitic, either unproductive or cruel. It has indeed seldom or ever been exemplified in this extreme. The most arbitrary and inconsiderate master is aware of its defects, and aims at some distinction, by which he would make the wealthy contribute in some proportion to their means. In a plan of capitation, for instance, projected for a neighbouring kingdom, it was

\* The Turkish governor in the island of Cyprus levies a poll tax from every inhabitant, without distinction of persons; and, by way of additional revenue, sometimes repeats the exaction from persons of a particular name, whether *George*, *James*, or *Thomas*. And, we may believe, when such is his humour, may add a name or two more. The labour of thinking seems to be the principal distress from which these officers shrink.

was proposed to range the people into fix classes, and to fix a proportional rate for each. Such an arrangement, however, would serve only to diminish the evil, not to remove it entirely. Within each of the classes considerable varieties of fortune must have been admitted, and great injustice would still take place in the exaction of equal rates from persons of unequal wealth, though of the same class.

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Were we to suppose a capitation or poll-tax to be freed of all its defects, by a perfect adjustment of the exaction to the means of those on whom it is laid, this in fact would be to change it into that form of taxation which we would express under the name of assessment.

Under this title we may include every species of tax, in which a due proportion to the means or estate of the subject is aimed at. Such, in particular, is the nature of the land tax in Great Britain.

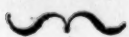
The rent of land is of all others the most palpable subject of assessment; but this form of taxation may with great justice be made to comprehend the rent of houses or tenements of any sort, which yield an ordinary return to the owner.

Property in money or stock is less easily ascertained. The very attempt, in the case of a merchant, might be attended with much inconvenience, or improperly disclose the secrets of trade. His stock is fluctuating. It is risked upon uncertain events; and, at particular times, it may be doubtful whether his fortune is not greatly reduced, or whether he is not upon the eve of recovering his risk with great profit. Free and trading nations, therefore, may wisely forego the application even of

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assessment,

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assessments, where the indiscriminate extension of such a tax might check the efforts of trade, on which the increase or preservation of national wealth so much depends.

Monopoly is the exclusive privilege of buying or selling a commodity, from which it is proposed to levy a tax.

Whoever has the sole privilege of buying may buy at his own price, and will give no more than what enables the seller to bring his goods to market. If he also have the sole privilege of vending, he will exact as much as the consumer can be made to pay, without discouraging him entirely from the use of the commodity. With these advantages, the dealer may make indefinite profit in the result of his trade. When the sovereign takes such a monopoly to himself, or lets it to farm, as has been done in many states, respecting salt, tobacco, and other commodities, he obtains by such means a considerable revenue, limited only by his regard to what the people may suffer from an immoderate exaction upon a commodity of general use, or by the danger of suppressing that use altogether, if the profit attempted to be made amounts to a prohibition. The Roman state, at a very early period of its history, took or let to farm the monopoly of salt. The same measure has been repeated in different nations of Europe and Asia, and is extended to a variety of other subjects.

Among the objections to this mode of taxation may be reckoned the necessity with which sovereigns of almost every denomination must feel themselves, being obliged to farm their monopolies, and thereby expose their people to all the vexations which accompany this mode of levying a tax, joined to the peculiar vexation  
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of being prohibited from supplying themselves with an useful or necessary article, at the easiest rate.

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The effect of monopoly, otherwise, may be the same either with that of a capitation tax, or of a fair assessment. A monopoly of the mere necessities of life, or of any commodity which the poor must consume, at least, equally with the rich, has all the cruel effects of indiscriminate capitation or poll tax; whereas the monopoly of any commodity of which men proportion the use to their means of procuring it, such as are matters of luxury or superfluous accommodation, has the effect of assessment so as to fall chiefly on the rich; or, if it fall upon persons of unequal condition, it may do so in just proportion to their fortune, or to their consumption of the article taxed.

But, in general it may be observed, that, if commodities are to be taxed, the form of customs or excise is preferable to that of monopoly.

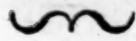
The revenue of customs consists in certain rates exacted for goods as they are passing in commerce. They are exacted at toll-bars, at the entry to markets, at the gates of cities, or at sea ports.

The exaction of customs, no doubt, is an interruption to commerce, and as such is avoided by nations whose principal trade consists in the carriage of goods.

Customs are commonly advanced by the merchant, but considered by him as a part in the cost of his goods, and to be recovered with profit in the sale of his commodity; so that taxes of

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this sort actually fall upon the consumer. By either merchant or consumer, however, they are less felt as a grievance than any other form of taxation. The merchant submits to pay custom, because he hopes to recover that and every other part of his advance with profit. The consumer is almost insensible of it, because it is paid as a part of the price of the commodity, which he freely buys, and from the use of which he is free to refrain whenever he becomes unwilling to pay the price.

As goods in commerce pass through a number of hands, and are paid for, successively by different traders, it is evident that the earlier any custom is paid to the revenue, in the transmission of articles from the hands of the producer to those of the consumer, the heavier will that duty fall on the latter, as he will be made to refund with profit the advance which every intermediate trader has made; and the more will what he is made to pay, in consequence of a duty so early advanced, exceed what actually passes into the coffers of the state. To obviate this and some other inconveniences, supposed peculiar to the revenue of customs, the duties of excise have in some cases been preferred.

The excise, when stated in contradistinction to customs, is a duty exacted from commodities in the actual use, and paid, not by the merchant, in any stage of the trade, but by the consumer.

In this form of a duty, all interruptions to commerce are proposed to be avoided, and the duty simply exacted from the consumer, without any accumulation of impositions on the cost of the article. In nations, however, where the subject is fond of his immunity,

nity or exemption from the controul and inspection of government, it is difficult to institute a revenue of excise, in the perfect form of its definition, as *a tax levied from the consumer*. The citizen exposed to such exaction would be aggrieved, in having his dwelling always laid open to the intrusion of the revenue officer, and his manner of life subjected to inspection. To avoid these inconveniences, the excise in Great Britain is no more than an approximation to the model proposed under this title. It is a duty exacted not from the consumer, but from the producer or last vender of the commodity; who, on account of the profits to be made by his trade, may submit to the inconvenience of having it inspected.

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Another occasion of dislike, which, in this island, is taken to the revenues of excise, is more accidental. The first duties of this kind, that were settled on the crown, were given in lieu of certain feudal rights which the king was entitled to exercise at discretion; and it was thought reasonable that their equivalent should be administered in the same manner with that part of the former revenue for which it was substituted. It is accordingly administered by a revenue board; and questions that arise with respect to it, are decided by commissioners, without admitting the subject to a trial at common law. The excise laws, accordingly, being supposed less favourable to the people than those by which their rights are administered, in other instances, are considered with peculiar dislike.

But apart from these considerations which are peculiar to the free spirit of this constitution, the merit of excise, like that of any other tax imposed on commodities, whether levied by monopoly or customs, is measurable by the nature of the commodity on which

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which the duty is paid. It may be a tax either on the poor or on the rich separately, or on all the different ranks and conditions of men, according to the degree in which they consume the commodity taxed.

No revenue can be considerable, that is derived only from a few, or from a particular class of the people. In the choice of articles to be taxed, therefore, subjects of very general consumption, if made to pay what even the poor can afford at the rate of their own consumption, and which in the greater or increasing consumption of the rich may amount to a payment proportioned to their fortunes, is no doubt the preferable object of taxation, whether in this form of excise or any other.

SECTION

## S E C T I O N VI.

*The same subject continued.*

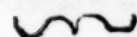
IN whatever manner a public revenue be constituted, whether in all or any of the ways now mentioned, a question still remains, In what manner the public resources are to be applied to the occasional exigencies of the state?

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An ordinary expence is to be provided for, from some ordinary fund; but sudden or extraordinary occasions require some immediate or extraordinary supply; and it is an important question in the administration of public revenue, In what manner this supply is to be obtained, whether by calling upon the subject, at every particular emergency, to contribute proportionally to the occasion; by having a treasure reserved from the savings of an ordinary income; or, last of all, by anticipating a future revenue in money borrowed, and chargeable with interest on some public fund?

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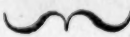
There is no doubt that contributions proportioned to the occasion, if these could be always obtained, would be the most proper and safest manner of accommodating revenue to the variable exigencies of the state. In this manner, persons entrusted with government might be restrained from engaging in projects of expence beyond their means or resources. Perpetual taxes would not be imposed for temporary or precarious advantages; nor would the errors of a passing age leave, for a monument of its misconduct or misfortune, an unnecessary burden to be borne by posterity. But it may not be practicable, on every emergency, and on those even the most pressing, to find a supply fully adequate to the occasion; and a nation thus trusting its safety to the supply of the moment, would be exposed to much disadvantage, and even danger.

The occasions on which a people are likely to be called upon to contribute most largely, are the very times in which their means are the most likely to be impaired, or they themselves precluded from the command of them. Such might be the case in time of invasion by a foreign enemy; when lands are laid waste; when the stock of the husbandman and manufacturer is carried off or destroyed; or even in case of war at a distance, or when the channels of trade are obstructed or turned away from their usual course, and the returns of profit are interrupted or rendered precarious. In all such cases, no revenue suddenly constituted can be equal to the occasion.

The provident statesman, therefore, we may suppose, would be prepared for for such an emergence in one or other of the ways we have mentioned; that is, he would manage his ordinary in-

come in such a manner as to have some savings reserved in his coffers to meet such extraordinary occasions ; or he would borrow upon credit from the few who are in condition to lend what the public may not then be in condition to advance ; but which it may be in condition to repay in a more favourable time.

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The first of these practices, in amassing a treasure hath been adopted by sovereigns in many states both ancient and modern. It is peculiarly adapted to the character of a prince, who is able in ordinary times to stretch the resources of his people to their utmost, or who is entitled at discretion to call upon them to contribute what he has not any immediate occasion to expend.

If indeed the ordinary revenue is such as the people can easily supply, and the saving proceeds rather from the moderation and wise oeconomy of the sovereign, than from his rapacity in extorting from the people more than is consistent with their prosperity to give ; in such a case, the formation of a treasure by public saving is unquestionably a wise measure, and sovereigns are entitled to respect in proportion as they pursue it steadily and successfully.

In pursuit of this measure, however, it is assumed, that more may at all times be exacted from the people than there is any immediate or present occasion to expend ; that a capital or stock, equal to the public savings may be withdrawn from the lucrative trade of the subject, and lie unemployed in the coffers of the state. But to withdraw any part of the public stock, in this manner, from public use, is no doubt an inconvenience ; and it will be the more sensibly felt, in proportion as the people are industrious, and qua-

PART. V. lifted to improve the stock in their hands, by employing it in the  
 CHAP. VI. hire of useful labour.  
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The objections thus stated to either of the two former ways of administering a revenue, whether by making demands, on every emergency, proportioned to the occasion; or, by hoarding at one time what may be wanted at another, may be removed by adopting the method which has been mentioned in the third place, viz. that of borrowing a capital for any sudden or extraordinary case; and, by creating a fund, or imposing a tax no more than sufficient to pay the interest of the debt so contracted.

In this practice, the lender is tempted by the equitable or lucrative terms which are offered to him; the public is tempted by the convenience of obtaining great sums, adequate to the occasion, upon the credit of a small or inconsiderable tax, government, at the same time, reserving the option of paying up the capital at a convenient time, or leaving the fund allotted to pay the interest in a transferable form, all parties are fully accommodated.

The creditor, although the public debt should not be paid, may recover his capital at pleasure by the sale of his stock: But the continuance of this practice requires that the good faith of the public should be known, and a perfect confidence established in the security it has given. The practice is therefore most likely to succeed, where the people, by themselves or their representatives, have a share in the government, and are consulted particularly in what relates to the revenue of their country. As their consent is required to the levying of taxes, they are likely to prefer a small tax, though with the burden of a perpetual annuity, to heavy taxes for the present, without any such burden. Under

der such constitutions of government, while the public at large become debtor, some part of that public also becomes the creditor, and in this capacity is deeply interested in having the public faith strictly observed.

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By this expedient, nations are qualified, on great occasions, to make exertions proportioned to their credit, and may sometimes overwhelm an enemy of superior strength, whose coffers are drained, and who has not an equal access to this resource.

For this reason nations who have ample credit will ever be tempted to employ it, and proceed in accumulating debt so long as the increase of their wealth enables them to provide for the supply of funds on which the public credit may be securely established.

This policy, however is supposed liable to peculiar objection, and is indeed threatened with evils of a very serious nature. It opens a new species of trade in the transfer of public funds attended with profit and loss to individuals, but unlike the employment of stock in manufacture or commerce, which tends to the increase of national wealth, it resembles rather the vicissitudes of a gaming table, turning the industry and skill of those concerned into instruments of mutual destruction, by which they would prey upon one another; so that, whoever gains, the public is sure to lose to the amount of a labour which is so misapplied. The more that the public funds increase, the more scope is given to this ruinous branch of traffic; and the streets of a capital, instead of the concourse of a busy people, who are labouring to increase the wealth of their country, exhibit crowds of adventurers who are hastening to partake of its spoils. They lend, not

PART II. to accommodate their country, but to make profit on every occa-  
 CHAP. VI. sion of public expence or calamity.  
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The statesman, in the mean time, is tempted by the facility of borrowing to be lavish of the public credit. The monied men encourage him, that they themselves may have lucrative bargains; and they from whom a tax is to be levied prefer a light burden in which their posterity is to bear a part, to one more heavy, of which they themselves must have borne the intire load.

A national debt may be increased almost insensibly, while the means and the strength of the people continue to grow; but no progress in human affairs is infinite, and whatever may be the strength of a people, a load that is continually growing must overwhelm them at last; or, to speak without a figure, the interest of a debt that is continually accumulating must come in the end to equal, or even to exceed, all the funds which can be found for payment of its interest.

Upon this account, it is a wise policy to establish some form, in which a debt that is gradually increasing, by recourse to the public credit on every accidental occasion, may also be gradually diminishing, in times of respite from every such occasion.

It may happen fortunately for nations in which the measure of borrowing is adopted, that the interest of money, by the accumulation of unemployed capital, may be considerably reduced; and in this case the public, by borrowing at a reduced interest to pay off the original debt, may considerably diminish the annuity which they were originally bound to pay. In this manner, while the capital of the debt in Great Britain was increasing, the annuity,

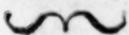
nuity, by a mere reduction of interest, was kept from increasing, in the same proportion. An original interest, in some instances, of eight *per cent.* being reduced to three, it may happen that, while the capital of a debt is doubled, the annuity receives no increase, or may even be reduced.

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So far, however, it appears from the whole of these observations, that states, in adopting any specific form in the administration of revenue, are exposed to peculiar inconveniencies or difficulties; and it is probable, that no two states can with equal advantage have recourse to the same expedients. One state may not be exposed to any such great or sudden emergency as may not provide for by an effort made on the occasion; and, in such case, it is undoubtedly expedient to accommodate the supply to the service for which it is wanted.

As every state may to a certain extent proceed in this manner, and on many occasions find a supply proportioned to the exigence of the case, it is undoubtedly wise, so far as is practicable, to accompany every emergence with a suitable provision, while, at the same time, care may be taken to have some treasure reserved in the coffers of the state, for occasions which cannot thus be provided for by occasional supplies. Thus, the Romans who had repeatedly suffered under sudden invasions from the warlike nations of Gaulic extraction, residing within the Alps, had a sacred treasure reserved, which it was deemed profane to touch, but in case of some such alarm from that quarter as threatened the public with immediate destruction.

Notwithstanding these maxims, it must also be admitted that, where states are fortunately circumstanced with respect to credit,  
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and, by means of this advantage, are able to maintain their state against nations otherwise more powerful than themselves, it were no doubt impolitic in them, to forgo their advantage, or to suffer themselves to be overwhelmed, rather than employ a specific means of defence which they in a particular manner have in their power.

But, without dwelling any longer on the comparison of different forms for the administration of revenue, we may observe, that the wisdom of any public expence is to be estimated by the occasion on which it is made; and public profit or loss from any adventure is to be measured by the return which it brings, whether adequate or unequal to the cost.

An expence, in whatever manner it be provided for, whether by savings made of the past, or by anticipations of a future revenue; or, in whatever manner it be disbursed, if it either were unnecessary, or did not bring a proper return, is to be considered as an article of public loss.

On the contrary, an expence which is necessary to public safety, or which brings an overbalance of gain, in whatever manner the supply be obtained, may be considered as part in the course of a prosperous nation. Not only positive acquisitions, but losses avoided, and the maintenance of a people in their progressive course of improvement, may be stated in account against the debt which is incurred, and be sufficient to create a balance in favour of the nation by whom it is contracted. Mere debt, therefore, is not to be considered as an article of loss, or even inconvenience which the national gain may not amply compensate. Nor are

we

we rashly to conclude, that a nation is the poorer for every article of debt it has contracted, until we have considered to what effect the money so procured has been expended, and whether the public advantages gained by means of it are fully adequate to the risk and the cost.

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At the same time, admitting this rule to be followed in the estimate of profit and loss, whether from money spent or borrowed, the peculiar effect of a national debt contracted is merely to transfer existing property or revenue, from the person who formerly consumed it, to a person who now receives it in the form of interest for his money. In this form, the property is at once of use and transferable with more ease than in any other form whatever. To the stockholder it joins the convenience of a bank with the profit of a mortgage, and is of great benefit to the trader at every little interval at which his money is unemployed. We cannot doubt, therefore, apart from the advantage of credit in the public operations of a people, that it is a public benefit also to have part of the national property in this transferable form: How much, it may be difficult to determine. It may, no doubt, with advantage, be increased to a certain degree; but not indefinitely. And it is wise, as the public occasions may tend to accumulate debt, that there should be a public regulation also, tending to diminish it\*. In this manner, the balance of universal order is beautifully preserved throughout the system of nature †.

Where

\* As in the commission for managing a sinking fund.

† The influx of rivers is balanced by evaporation from the sea; and the projectile impulse of planets is circumscribed within certain bounds by central forces.

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Where the money wanted cannot be raised within the year, it may nevertheless be raised within a limited period, if the fund provided should be sufficient not only to pay the interest, but also to extinguish the debt within a specified time.

SECTION

## S E C T I O N VII.

*Of Civil or Political Liberty.*

THERE is a meaning annexed to liberty which is highly interesting to every ingenuous mind. Its votaries are supposed to have a common cause with their fellow creatures, and ever occupy a distinguished rank in the list of the heroes. It is thus that Pelopidas and Thrasylbulus, Dion, Cato, and Brutus, rise above the level even of eminent men. It inspires magnanimity and nobleness of mind; at the same time, like every other object that greatly concerns mankind, certain misapprehensions of it, or false pretensions to it, give occasion to great abuse. The zealot for liberty has run into the wildest disorders; and adventurers, under pretence of promoting it, have found their way to the most violent and pernicious usurpations\*.

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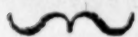
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\* To this we ascribe the Tribunitian disorders at Rome, and the usurpations of Cæsar and Cromwell, &c.

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On a subject so interesting, we are deeply concerned to have just information; and, as the substitution of a false idol for this object of ardent devotion has led to such fatal extremes, we are no less concerned to reprobate the idol with horror, than we are with fond devotion to reverence the genuine object of worship; and may very properly, in our way to the formation of a just notion of liberty, begin our researches by observing what it is not.

Far fetched knowledge is not the most useful, either in the formation of theories, or in the conduct of life; and it is in the common course of things we must look for the rule to direct us in either. It is also in the most common or vulgar errors we have to dread the greatest danger to the peace and welfare of mankind. However persons of reflection, therefore, may think it idle to waste time in correcting such errors, we must attend to the common notions of men, respecting a matter in which the plurality of voices may often prevail over reason and good sense. Upon this account we may be allowed to observe, in the outset, that liberty or freedom is not, as the origin of the name may seem to imply, an exemption from all restraint, but rather the most effectual application of every just restraint to all the members of a free state, whether they be magistrates or subjects.

It is under a just restraint only that every person is safe, and cannot be invaded, either in the freedom of his person, his property, or innocent action. If any one were unrestrained, and might do what he pleased, to the same extent also every one else must be exposed to suffer whatever the free man of this description were inclined to inflict; and the very usurpation of the most  
outrageous

outrageous tyrant is no more than a freedom thus assumed to himself.

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Under this mistake, the vulgar conceive a zeal for liberty to consist in opposition to government; take part with every refractory subject; and seem to think that whatever impairs the power of the magistrate must enlarge the freedom of the people. It is material, then, to remember that every person whatever, no less than the magistrate, if not properly restrained, may trespass on the liberty of his fellow creature; and that the establishment of a just and effectual government for the repression of crimes, is of all circumstances in civil society, the most essential to freedom: That every one is justly said to be free in proportion as the government under which he resides is sufficiently powerful to protect him, at the same time that it is sufficiently restrained and limited to prevent the abuse of its power. This is the roof under which the free citizen takes shelter from the storm of injustice and wrong; and he is no less concerned to know that the roof is tight and sufficient to repel the storm, than he is to know that it is well supported and secured from falling on his head.

We are safe, then, to define liberty, the operation of just government, and the exemption from injury of any sort, rather than merely an exemption from restraint; for it actually implies every just restraint. It must be admitted, at the same time, that to a being whose active exertions are a principal source of his enjoyments, restraint, if capricious or unjust, may be considered among the first of his grievances; and there is no infringement of liberty more sensibly felt than a teasing imposition of frivolous observances,

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vances, or an arbitrary restraint imposed on the harmless pursuits of an ordinary life.

It is highly grateful to the human mind to pursue its innocent course undirected and uncontrouled. It is even flattered with the imagination of romantic scenes, in which nature is free; not bound to any task; not responsible to any authority; not hampered by any forms; and left to pursue the object of the moment in the way that the present moment suggests. This we conceive to be the state of the savage in his forest, connected only with the objects of his affection or choice; and, even in his engagements with those he loves, released from any sense of awe, controul, or restraint, whatever.

From this state of supposed perfect freedom, we apprehend that every step which is made towards a political establishment must be to the individual a surrender of some original right; but we are disposed to apologise for the concession a free citizen has made, by stating the sacrifice of a part as necessary to secure the remainder.

Liberty, therefore, if most perfect in the condition of the savage, it should seem from this account of the matter, is at least insecure; and this circumstance overthrows the very idea of that freedom which consists in the secure enjoyment of rights. The savage may, if he will, retire from the haunts of his fellow creatures, and avoid them as he himself is avoided by those animals of which he is disposed to make a prey. But, while he lives within reach of other men, he himself if weak may be a prey to the strong; or, if individually strong, he may still be a prey to numbers, if perchance they should combine against him. His freedom, then, is precisely no more than a privilege to deny himself all the comforts

forts of a man, in order to avoid the inconveniencies of a dangerous neighbourhood: Or, if security be necessary to liberty, in what manner, we may ask, can he at once possess and secure his comforts? Only by the concert of many, mutually to defend one another, and for this purpose to act under a common direction. This, in other words, is to form a political establishment; and so far mankind universally proceed to adopt some species of polity upon the suggestion of nature, or the early lessons of experience in ages otherwise rude.

Now, it may be asked, what has the individual surrendered in coming under such an establishment? the freedom of retiring from his kind, shall we say, and of relinquishing all the comforts of society? But this he has in fact nowhere surrendered. This sort of freedom is still entire to the citizen of London and Paris, as much as to the original inhabitant of Canada or Labrador. But the subject of any regular government will scarcely think it a privilege that he may, if it so please him, relinquish all the comforts and securities of life under the notion of recovering the original freedom of his kind. Security, in fact, is the essence of freedom; and, if security is to be obtained under political establishment alone, there alone also is freedom obtained: and, in repairing to this shelter, when properly instituted, the savage surrenders nothing, or rather in the acquisition of security acquires every thing.

Freedom or liberty, then, we may conceive to be the genuine fruit of political establishment: But, where the fruit is wanting, the tree is justly accursed for its barrenness, or torn up by the roots for its yielding a poison instead of a wholesome food. When liberty is considered as the cause of the innocent against the guilty, or of the weak against the strong, and awakens the heart  
against

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against insult and wrong, we may easily account for the ardent and enthusiastic affection with which it is embraced by every ingenuous mind. Mere restraint, however injurious, is but one species of wrong, and would form but a partial account of the evils which render the tyrant so much an object of indignation to mankind.

But to the negative proposition thus stated, that liberty does not consist in mere exemption from restraint, we may subjoin another, That it does not consist in the equality of station or fortune. In this sense, liberty were a mere chimera or vision, never realized in the state of mankind. The nations who contended most for the equality of citizens, in admitting the institution of slavery, trespassed most egregiously on the equality of mankind.

Nay, but we shall be told, that all men were originally equal. This, in regard to property, can mean only, that, when no one had any thing, all men were equally rich: But even this is no more than fancied equality in a single point. In respect to sex and age, strength of body and mind, individuals are destined to inequality from their birth; and, almost in the first steps of society, bear the distinctions which industry and courage give in the different attainments of men, and lead in the sequel to all the varieties of profession and fortune.

The only respect in which all men continue forever to be equal, is that of the equal right which every man has to defend himself; but this involves a source of much inequality in respect to the things which any one may have a right to defend. As every one originally had a right to preserve himself in the just use of his limbs, organs, and faculties, he has also a right to what these  
may

may justly procure for him ; he has a right to engage himself in any bargain or compact, and to stipulate for himself any fair condition ; he has a right to acquire by his labour any unappropriated subject, or any subject appropriated with consent of the former proprietor. In the exercise of these rights, the conditions of men, whether in respect to possessions, or in respect to their mutual concessions or claims of service, may become unequal to any fair amount ; and it is not possible to prevent the inequality of condition in the fortunes of men, without violating the first and common principles of right in the most flagrant manner.

Whilst we admit, therefore, that all men have an equal right to defend themselves, we must not mistake this for an assumption that all men must have equal things to defend, or that liberty should consist in stripping the industrious and the skilful, who may have acquired much, to enrich the lazy and profligate, who may have acquired nothing, or who may have wasted all they could reach. It is impossible to restrain the influence of superior ability, of property, of education, or the habits of station. It is impossible to prevent these from becoming in some degree hereditary ; and of consequence it is impossible, without violating the principles of human nature, to prevent some permanent distinction of ranks : And, if this were possible, it is far from expedient in the circumstances of human life. In these inequalities we find the first germe of subordination and government so necessary to the safety of individuals and the peace of mankind ; and in these also we find the continued incentive to labour and the practice of lucrative arts.

As liberty consists in the communication of safety to all, nothing could be more repugnant to it than the violation of right in any part, in order to level the whole. It is true that great inequalities

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of fortune are adverse to some species of political institution; that great distinctions of rank, founded in birth alone, to the exclusion of merit, or to the suppression of all the efforts of distinguished ability in public service, is a corruption fatal to mankind; that unrestrained possession of arbitrary power of any sort, is for the sake of liberty and justice, to be carefully watched and stopped short of the extreme to which it may tend: But, as every one has a right to the condition in which, by the ordinary course of human nature, he is fairly placed, in which he is no way injurious to his fellow creatures, it must follow that liberty, in every particular instance, must consist in securing the fairly acquired conditions of men, however unequal.

Distinctions of fortune may give rise to a separation of aristocratic and popular factions, or a supposed opposition of interests, in the different orders of a people; and we will have occasion to observe that neither is safe without such a share in the government as may enable them to defend themselves, or put a negative on any measures which might be prejudicial to their respective interests. Both the high and the low, however, frequently aspire to the government of their country. The one is said to contend for authority, subordination, and power; the other for liberty, immunity, or privilege: But liberty is far from being safe in the exclusive prevalence of either. This will not be disputed relating to the unrestrained prevalence of aristocratic authority. But it is no less true, that liberty does not consist in the prevalence of democratic power. The violence of popular assemblies and their tumults need to be restrained, no less than the passions and usurpations of any other power whatever; and there is indeed no species of tyranny under which individuals are less safe than under that of a majority or prevailing faction of a corrupted people.

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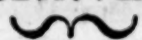
From these observations, upon the whole, it appears, that liberty consists in the security of the citizen against every enemy, whether foreign or domestic, public or private, from whom, without any provision being made for his defence, he might be exposed to wrong or oppression of any sort: And the first requisite, it should seem, towards obtaining this security, is the existence of an effective government to wield the strength of the community against foreign enemies, and to repress the commission of wrongs at home. Under this protection, indeed, there may be danger from the very power which is established to afford it; but, without some such provision, there cannot be any degree of safety whatever.

In pursuing this idea of liberty, therefore, through the several circumstances that may be necessary to give it reality and effect, we have to consider, in the first place, what may be necessary to give an establishment efficacy in restraining the disorder of the subject: Next, what precautions may be necessary in the institution of power, to prevent the abuses that may be apprehended in the discharge of its functions.

These functions, we may conceive under three separate titles, *legislation, jurisdiction, and the execution of the law, or conduct of the national force.* And, corresponding to these functions, in every political establishment, three distinct powers may be considered; namely, the *legislative, the judicative, and the executive.* With respect to each of these, liberty requires that the powers should be effectual to the establishment and preservation of order on the part of the subject, and that it should be so exer-

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cised on the part of the magistrate, as not to offer any injustice or wrong to the people.



In farther treating of liberty, therefore, we are to consider the institutions of government required for the discharge of the principal functions now enumerated, and providing at the same time for the efficacy of power, and the safety of those who might be exposed to suffer from its abuse.

SECTION

## SECTION VIII.

*Of Liberty as it may be affected by the Exercise of the Legislative Power.*

LAW is the sovereign will to which every part of the community must conform itself. That power, therefore, whether single or combined of many parts, which gives law to the community, must be supreme ; and, when its will is declared, cannot admit of any controul, without a dissolution of the political frame.

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Upon this ground, liberty seems to require that every member of the commonwealth should have access, before the law is enacted, to guard himself against any wrongs to which he may be exposed from the admission of any partial regulation ; or, in other words, that the people of every separate order or rank, however distinguished by fortune, should each have an active share in the legislature of their country.

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At the same time, if this be admitted, it should seem to follow that liberty must be confined to a few democratical states, in which alone it is possible to comply with this condition. And so indeed, among antient nations, liberty was supposed peculiar to republics, and to those especially in which the sovereignty was exercised by the collective body of the people. Upon this ground, the republics of Greece and Italy were, with a few exceptions, distinguished from the rest of the world.

But the practice of representation, so happily introduced in some modern nations, though not of so great extent as to admit of their people being collectively assembled, has removed this difficulty, and enabled every order of the state, if not collectively, at least by deputation, to take a part in the legislature of their country, and to have a vigilant eye on the proceedings of the whole.

What renders this expedient, of trusting the interests of many to a few, a sufficient security to the people who rely on it, is that their representative, by being a person of the same mind and interest with themselves, and himself included in every act of legislation, is likely to proceed as his constituents would do in his place. In whatever manner the representative be singled out, if he bear these qualifications, human nature does not seem, in states of considerable extent, to admit of any greater security to liberty than this.

It may be thought that election is the most likely, if not the only way of securing these qualifications in the person who is to represent the people; but, if the roll of the citizens be sufficiently purged of all persons unfit or unworthy to partake in the legislature

lature of their country, the representative might no doubt without any danger be drawn by lot.

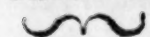
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But here we may be told, "That more is required to complete the advantage of a form in which citizens act by representation: That it is not enough the representative partake in the interest of those he represents: That he ought to feel himself in the exercise of a trust committed to him by the confidence and good will of his fellow-citizens, and be led to act from affection in return for their esteem." This, indeed, however little it may be necessary to secure his regard for an interest in which he himself partakes, is the true state of a man and a citizen acting for the welfare of his country.

With this, also, it may farther be urged, "That every statute being a treaty or act of convention between the parties concerned, and, like any other compact, is binding only upon those who in person, or by their commissioners, have given their assent; the representative must have an express commission or deputation, entitling him to bind his constituents before he can subject them to any condition in the form of law; and that in acts of legislation, every individual has a right to name his representative, or, if this right be withheld from him, that he is not bound by any deed which may follow."

Upon this plea of absolute right in every individual to be bound only by his own assent, it should be allowed that, prior to convention, a people cannot be bound to any act in which they are not unanimous. Where any individual dissents, he does more than withhold his agreement, he declares a repugnance: But when a plea thus amounts to something that has never been realized in the history

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history of mankind, still more, if its object be such as cannot be realized, there is reason not only to doubt its validity, but actually to consider it as altogether nugatory and absurd.

Laws are every where acknowledged to be binding on persons who are never called upon to give their assent, either by themselves or their representatives. And where it is proposed to have a general assent, still the assemblies which are held for this purpose are partial, and far from admitting every subject, without exception, for whom the law is to be made. One of the sexes, though by nature vested with every right; and a great part of the other sex, upon an arbitrary distinction of nonage \*, are excluded altogether; many are kept away by disability of health or decline of age; yet, it never was supposed, in any case whatever, that these are to have a dispensation from the law. Even of the few who attend deliberative or elective assemblies, it seldom happens that the whole is unanimous. And if the majority in fact overrule the minority, this prior to convention is a mere effect of power, not matter of right. The majority is no more than a government *de facto*, until the people at large, finding their account in the observance of some such rule, and every individual, in his turn, availing himself of his advantage in being of the majority, by his acquiescence, gives it a right of convention in the same manner as any other actual government receives the sanction of compact, and becomes binding on those who avail themselves of the benefit it bestows.

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\* The period of nonage has been varied from 18 to 21 and 25 years, and is in reality arbitrary. One person may have more sense under 20 than another at 40 or 60, or any other time of his life; but, as children are incapable of public trust, it is necessary that there should be a rule in this matter to which all must conform.

Prior to convention, every one has a right to govern himself; but not to govern any one else. The government of others, then, prior to convention, is not matter of right to any one; although to have government, and this purged of every person incapable or unworthy of the trust, is matter of expedience to every one. And under every wise political establishment it becomes a question, who may be safely entrusted with legislative power? for surely the indiscriminate right of every one, whether capable and worthy, or incapable and unworthy, cannot by any means be admitted.

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While we suppose the people, therefore, to partake in the legislature of their country, whether collectively or by representation, a variety of questions are still open to discussion:

1st, Who are to be admitted on the rolls of the people, and to have a deliberative or elective voice?

2d, In the case of a people too numerous to meet in any one body, in what divisions are they to act?

These questions, even under establishments the most favourable to public liberty, have been decided as chance would have it. In all the ancient republics, the class of free citizens was but a small part of the whole number that was subject to the law. At Athens, the most democratical of all the ancient republics, not a third; and at Rome, still in a smaller proportion. Even the citizens, so reduced in their proportion to the whole number of men in the community, were never in fact collectively assembled. At Athens, of about two hundred and eighty four thousand souls, including free citizens, aliens, and slaves, no more than five thousand commonly met in the Ecclesia or national assembly; a proportion rather

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rather to be considered as a representation than a collective body. At Rome, the people dispersed over the country towns and the provinces were, in the same manner also, casually represented in the comitia by such as frequented the streets of the capital. In the case of Athens, so far as concerned the free citizens, being about 84,000, the representation may have been adequate and safe: Five thousand citizens, inhabitants of the city, casually taken from the whole, and making laws for themselves and the community, were no way likely to invade the rights of the multitude; although, from their democratical spirit, they too often invaded the rights of particular citizens, distinguished by their fortunes, or even by their merit. The casual representation which took place at Rome was much less adequate or safe. The disorderly inhabitants of the town gave law to their fellow citizens as well as to their subjects and allies of the provinces.

In modern Europe, we are every where happily rid of that distinction of free man and slave, which in antient times excluded so many of the human species at once from any means of defending themselves, in forming the laws to which they were subject. But even here, and where the spirit of political establishment is most favourable to public liberty, there are still considerable exclusions from the political meetings of the people, whether for police or election. Not to mention again the exclusion of women and children, there is in every country a distinction of denizen and alien, by which many inhabitants are excluded from any share in the government to which they are subject. In the little canton of Schweitz, the master and his servant unyoke their team, and go to the national assembly together: But still the alien inhabitant must abide by resolutions in which he has no part. In the first attempts of the French Revolution to equalize the rights of men, a certain though

a very small *census* was required, to entitle the citizen to a vote at elections. In a subsequent appointment this census was dropped; but still those who are to be governed by the law exercise their discretion, and menial servants are excluded. In Great Britain, a certain census \* is required, together with some circumstances of freehold and burgh qualification. And even, notwithstanding these qualifications, certain officers of the executive power, as being dependant on a part of the community distinct from the commons, are, by recent laws, excluded from a vote at the election of commoners to serve in parliament. But, notwithstanding these exclusions, the liberty of the subject is more secure perhaps than it ever has been under any other human establishment. And if any one plead that, being excluded from a vote at elections, he is not bound by the laws to which the people assent by representation, his plea may be admitted, and he is at liberty to withdraw from the influence of these laws: But, while he remains within the precincts to which they extend, and continues to take the benefit of them, he is not at liberty to counteract or to disturb the order of things established. The public, to avoid a special discussion of the franchises of every individual; and the return of such discussions, on every particular occasion, have settled general rules for the better government of the country: And, if these rules carry an exclusion to any individual, he nevertheless owes to that law the same obedience that he owes

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\* Distinctions of rank, for the most part, are taken from birth or property; and we may censure the rule, but cannot reverse it. It is even fortunate for mankind that a foundation of subordination is laid, too obvious to be overlooked by the dullest of men, or by those who stand most in need of being governed. But, though property sometimes overpower both ability and every other merit, yet there are occasions in which it must give way to either. At elections and country meetings, men of fortune predominate; but armies are commanded, and states are governed by men of ability.

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to every other law of which he enjoys the effect and protection.

But, in respect to these exclusions, and in respect to other particulars, in matters of particular form, there is a considerable latitude, within which varieties are found that do not essentially affect the liberties of mankind. As to the separate divisions, in particular, in which a numerous people may assemble for any purpose of state, they have for the most part been casual; as were the tribes or Curiae at Rome; the tythings, hundreds, parishes, counties, and boroughs, in Great Britain. Such divisions may be unequal; and yet, in perfect consistence with freedom, have equal voice in the deliberative or elective proceedings of their country. The liberties of mankind do not totter upon a single point of support: They make for themselves a large and capacious base, under a variety of forms, in which men still find themselves in condition to defend their rights. All that can be said in the matter is, that, if any people were to make up anew the rolls of their citizens, or to set off the divisions in which they were to act, the rolls ought to be made up with the fewest exclusions, and the divisions set off with the greatest equality, consistent with reason and public safety. Where people indeed act by representation, their liberty depends more upon the character of the representative, than upon the form of proceeding, or the number of persons who are admitted to vote at elections; and when this matter is settled upon any footing that is safe, stability is of more consequence than any advantage to

\* Humanum est errare.

to be gained by change. Too much fluctuation, or frequent transition from one set of rules to another, is, of all circumstances, the least consistent with that sense of security in which the possession and enjoyment of liberty consists.

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## S E C T I O N IX.

*Of the Judicative Power.*

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IT is congenial to the nature of intelligent being, that the scene in which he is to act should be governed by fixed and determinate laws, either obvious, or scrutable by the faculties with which he is furnished. Such, accordingly, is the scene prepared for man in the system of nature.

It is also essential to the liberties of a people, that their rights should be defined in well known and permanent regulations, from which the citizen may know his condition, without consulting the caprice or uncertain will of any person whatever. As for this purpose there is required a legislature the most likely to form impartial laws, so also is required a judicature the most likely to give these laws their proper effect.

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In whatever manner the powers of state be distributed, that which gives law to the whole, we have observed, must be supreme; and though, by this circumstance, the legislative power cannot admit of controul, either in the application or interpretation of its own enactments, yet it is perhaps by this very circumstance, in ordinary cases, disqualified to exercise, in consistence with the safety of the people, either the judicative or executive powers.

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It were dangerous to allow of any latitude or any exercise of discretion, in the application of law. This is the tenure by which every citizen holds his right; and it were nugatory to say, that the tenure of law were secure, if it might be interpreted and applied at discretion. But it is impossible to separate the idea of discretionary power from that of the sovereign or supreme legislature. Persons invested with sovereignty, and inured to command, will not easily submit to be restrained by rules which, though just in the principle, may, in particular cases, appear inexpedient. The discretion that was exercised in framing the law will incline even those by whom it was framed, under the influence of sentiments or passions that may arise on particular occasions, to dispense with the rule which they themselves had enacted. And if the law be departed from, in any case whatever, the citizen is so far aggrieved, or becomes insecure of his tenure.

If the legislature be composed of members collected from the different orders of the community, as the safety of these different orders seem to require, there is indeed, even from such assemblage of powers concentrated in the same assembly, less abuse to be apprehended in the application as well as enactment of the

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the law. But such numerous assemblies are peculiarly apt to enter into the passions and interests of a particular case, to communicate passion by contagion, and to become eager in the pursuit of any object, by mere sympathy or participation of zeal; so that one or other of the parties, to whom a law should apply, in a particular case, may be liable to suffer by the heat or passion of a moment, a tenure which of all others is the least secure by which any right can be held.

A person may be qualified to hold a place in the legislature of his country, by merely partaking in the interest or concern of the order or class of men he represents, or of which he makes a part; and he may provide for the safety of his constituents, by refusing his assent to whatever is inconsistent with his own: But to exercise the office of judge, more may be necessary; an equal concern for the rights of all parties, and an adequate knowledge of the laws in which those rights are defined.

Where the laws, therefore, are greatly multiplied, as is generally the case under institutions of freedom, the study of law becomes the object of a separate profession; every one, whose right in a particular case is brought to the test of law, has recourse to the assistance of learned counsel; and, as in the contest of parties each may have recourse to partial counsel, it is necessary that the public also should have counsel retained for law and justice.

Such we may conceive to be the character in which official judges are appointed, under every well regulated government.

As judgement, in any one instance, may be subject to error,

or incline to abuse, it is proper that there should be courts of appeal, and means of review; or, in case of apprehended corruption, it is proper that the official judge should be responsible to some transcendent jurisdiction which may take cognizance of his conduct, and restrain a crime which would involve the whole community at once in its consequences. Here the legislature itself must interpose; and, if for no other reason than this, ought not, in the previous steps of a suit, to charge itself with the functions of judicative power.

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In legislation, citizens assemble with a professed intention to promote or to guard their own interests, or those of their respective orders; and, even in the exercise of judicative power, it may not be possible to exclude the consideration of peculiar interests, even from those who sit in judgement on the rights of fellow citizens: But, if any interest is to be admitted in the tribunals of justice, it should certainly be no other than the general interest of the people at large; an interest which is equivalent to justice itself; which requires that no right should be violated, or that no violation of right should escape punishment.

This, in fact, is an interest which the impartial citizen has in every question of law. If crimes may be committed, and a wrong may be done to any one, it may be done to himself. If an innocent person may suffer under pretence of a criminal charge, such a charge, in the next instance, may be brought against himself. If crimes are not restrained, or if criminals are suffered to escape, the innocent citizen may consider every criminal so discharged as an enemy let loose against himself and his family.

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It appears, then, that a person so affected is equally qualified for the judicative as for the legislative trust: He has every inducement to judge fairly, to the utmost of his ability, in every question of civil or penal jurisdiction. He may need the assistance of learned counsel, or of the official judge, in directing the forms of procedure, in bringing questions to issue, or in pronouncing the sentence of law; but, where evidence is brought before him, and the circumstances of a case are fairly stated, he is fully competent, as in the ordinary affairs of human life, to perceive the reality of a fact, or to pronounce of a deed that has been done, whether it be guilt or innocence.

Such, indeed, is the description and function of juries in the tribunals of some modern nations, who have fortunately in this instance refined on the practice of feudal establishments, by which questions of right or criminal charge, in particular instances, were referred to the judgement of a few select men from the vicinage. The occasional tribunal so composed is termed a Jury, because its members are sworn to determine truly in the questions which come to be tried before them. The oath of the juror may no doubt be held in part a security for the truth of his verdict; and a like security might be had, by administering a similar oath to the official judge: But the specific security which is had in this case arises, not from the sanction of an oath, but from the character and condition of the juror equally interested in civil questions, to support every right, and to restrain every wrong, and, in penal questions, to protect the innocent, however accused, and to punish the guilty, however supported.

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That this character, indeed, may be realized in every instance, it is proper that a list, collected indiscriminately from the vicinage in which any question has arisen, should be purged of all partial counsel, by challenge of the magistrate or of the parties concerned, until they who are inclosed for trial shall be free from any exception, whether of reason or nameless distrust, that may lie against them.

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Men taken, for the occasion, from the mere ordinary walks of life, may be ill qualified to unravel the intricacies of a judicial case; but, in this, it is the function of the official judge to assist them. Law is devised for the people; and as, in the accumulation of its forms, there may be introduced a number of technical terms, with which lawyers alone are familiar, it is right that in every particular trial they should be brought back, if possible, to the use of a language which all men understand. This is the tenure by which every citizen holds his right; and it is proper that it should not be wrapped up in obscurities. The official judge partakes in the magistracy, and may be infected with its specific prepossessions against the subject. If his conduct occasion any suspicion of this sort, the power of a jury is on this account also wisely interposed to prevent its effects. And upon the whole we may venture to assume, that a tribunal so constituted gives to the citizen, in the possession and exercise of his rights, all the security which it is possible to obtain through the medium of any human establishment.

After all, it is possible that, in thus attempting to fix canons of estimation in matters of political institution, we may be partial to those of our own country, and mistake the forms to

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which

PART II. which we ourselves are accustomed for the models of reason and  
CHAP. VI. wisdom. It is, however, fortunate for a country to have in-  
SECT. IX. stitutions which can be so mistaken by those who experience  
their effects.

SECTION

## [S E C T I O N X.

*Of the Executive Power.*

WHEN a people is orderly, and affairs proceed with little interposition of government, we may be apt to imagine that they might do without it: But the happiest effect of government is to prevent disorders, not to redress them. And when we consider the mixture of ill disposition, folly, or mistake, that is ever inherent to human nature, the more probable inference from the case of a people at rest, is, not that government is needless, but that they are well or happily governed. The citizen must not imagine that law is unnecessary to him, because he has not had any occasion to recur to its protection. This want of occasion is itself the greatest proof of its energy. Were this energy withheld for a moment, the smallest leaven of depravity, in any part of the society, would soon destroy the peace of the whole; and, by a licence to crimes on the one hand, and to private resentment on the other, would soon make a scene of confusion and riot. Even where the inclination

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to evil is least frequent, if it actually exist in any part, the whole must be on their guard.

Among the advantages to be reaped from society, therefore, one, and a principle one, is, That numbers of innocent men, by uniting their forces, may be secure of their rights to a degree that could not be obtained by any single person acting alone for himself. Under such combination properly directed, the community is secure against any foreign enemy, and the individual is secure against any wrongs to which he is exposed from the commission of crimes.

To wield the national force for these purposes is the office of executive power; and the citizen knows not of any consideration more essential to his liberty, than that there should be such a power fully adequate to the purpose for which it is established. It is like the roof, by which those who take shelter under it are protected from the storm: It is the most essential part of their dwelling, and for the support of which the walls and other parts of the building are chiefly contrived.

It were a great error, therefore, in the zealot for liberty, to set himself against the formation of an executive government, sufficient to combine the strength of the people, and to enforce the observance of justice in every part of the community.

At the same time, if we suppose that a power which is established for these purposes were employed to violate the rights it ought to protect, there is no case more fatal to the liberties of the people: For, on this supposition, the arm which ought to defend is itself the force that invades. The remedy is become the disease; and

and the roof, under which shelter is taken from a storm, threatens a ruin more dreadful than the storm it was intended to repel.

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In respect to the executive power, therefore, in whatever form it be established, it is equally the interest of the citizen that it should be irresistible in every act of justice, and that it should be restrained in every commission of wrong. And in this consists the great problem of political wisdom for securing the liberties of the people, which are equally exposed in the licence of the subject against the magistrate, as in the licence of the magistrate against the subject.

Of the functions of executive power, some are in continual exertion; others, whether casual or periodical, are only occasional. Some require great secrecy and dispatch; others admit of being publicly known, and may be the better directed for having been publicly discussed.

Functions of so different a nature may be discharged with advantage, by powers differently constructed, and under different forms of procedure.

Matters of an ordinary and public concern, such as the administration of revenue, or the internal policy and government of a country, may be treated of in numerous councils, and taken up at regular periods, or at any convenient times.

Affairs that may come by surprise, and that require dispatch, may be committed to single men, as they are, in republics of small extent, commonly entrusted to magistrates elected at determinate periods: And, in such cases, the abuses of power may be guard-

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ed against by limiting its administration, as at Venice, or by shortening its duration, as in other small republics of Italy.

It being the interest of the citizen, that the executive government employed in the defence of his rights should, in that exercise of it, be altogether irresistible; it is required, of course, that no other person within the state, no faction or partial combination whatever, should be able to withstand the power of the magistrate when fairly exerted.

In republics uncorrupted, the elective magistrate is, by the respect which every citizen bears to the majesty of the commonwealth, sufficiently supported to enable him to suppress every disorder to which any private faction or party may be inclined.

But, in republics greatly corrupted, faction and party often become too powerful for the legal authority, and the private citizen is sometimes exposed to injuries which the usual forms of the state cannot restrain. To remedy the defects of government, in such cases, the people have had recourse to the temporary establishment of extraordinary powers, as that of the decemvirs, or of dictators, at Rome. But, in times of great corruption, the remedy has proved worse than the disease. The decemvirs abused and attempted to prolong their discretionary power, and the dictatorship ended in the usurpation of perpetual despotism:—An emergence, indeed, which among many others in a corrupted state may appear at the instant to be the least of its evil; as at Rome, the usurpation of Cæsar may have appeared a less evil than the dangerous tumults which were employed in the contests of Clodius and Milo.

In states of the greatest extent, the citizen, either by himself or his representative, may have such a share in the legislature as may secure him from any encroachment on his rights in the form of law; but, without a sufficient executive power, he may not be secure of the right which law confers upon him; or he may suffer from the crimes which become frequent under the licence which attends a weak government.

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In great empires, there is a danger of disunion and dismemberment of provinces, as well as disorder and licence of individuals; and, to preserve the peace and give effect to the laws, in every corner of such a dominion, it is perhaps necessary to vest the executive power with all the prerogatives and influence of monarchy, and to take in aid of its authority whatever is fit even to impose upon the imaginations of men, the lustre of birth, the splendour of a court, as well as extensive patronage, and the command of a military force. So armed, the sovereign may be able to repress every disorder, and to overcome the resistance of any party, or combination that may be formed to disturb the public peace. And with these advantages, no doubt, he may be in condition to preserve the rights of the citizen; but he may also, if not properly restrained, be in condition to invade those rights; and hence the difficulty of arming the executive power with adequate force, and at the same time of reserving a sufficient security against the abuse of that force, or to establish such a relation between the executive and legislative powers, as that neither shall, without proceeding to violence, encroach upon the functions or rights of the other; or that, in case of violence, the most daring usurpation should feel itself weak in proportion as it ventures to shock the general sense of the people.

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For the first of these purposes, it is necessary that every branch of the legislature should have all the power that is necessary to preserve its own privileges; should be perfectly free and unawed in its deliberations; and, though not in condition to obtain every article of law that may be proposed for its own advantage, that it should have a negative upon every article from which it apprehends a diminution of its rights. So far also it is proper that the executive power should have a voice in the legislature; or, in other words, that to prevent encroachments upon its just prerogative, or any diminution of that energy which ought to be exerted for the safety of the people, it ought to have a negative upon every act that may tend to such consequence.

It is essential to liberty, that, in matters to which the foresight of legislature can reach, the operations of power should be nothing more than the execution of law.

In respect to this object, wherever the people of every denomination, by themselves or their representatives, have a deliberative and negative voice in the legislature, they seem to have all the security that human nature can give: In the first place, a security that there shall be laws, according to which the executive power is to govern, and that these laws shall be equitable or just respecting the subject. And so far we have already, in what is observed on the subject of legislature and judicature, pointed out the most effectual securities against the abuses of executive government also.

Still farther, if the people in their legislative capacity retain the privilege of constituting and granting the public revenue, while

while they are careful to make it sufficient for purposes of state they may charge it with conditions sufficient to prevent its misapplication, or even withhold it entirely, when they apprehend an abuse.

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In respect to judicature, when the very persons who are most interested that no right shall be infringed, that no innocent man shall suffer, and no guilty person escape, are themselves the persons called upon to interpret and apply the law, the security of the citizen, whether in civil or criminal cases, appears to be complete; so that, in what has been observed on the institutions of judicature as well as legislature, the most effectual securities against abuses of the executive power have been already pointed out.

But there is nothing perfect in human affairs; and all the functions to which we have referred under the titles of legislation, jurisdiction, and execution, though necessary to the safety of the people, are all of them subject to abuse, if not by their separations rendered a mutual counterpoise, or a restraint from the errors to which they may be severally subject. If any person or class of persons, having a partial interest, were entrusted at once with the legislative and judicative power, that interest might be expected to prevail in the spirit and tendency of every law, or warp every judgement in the application of it. And if the executive power, which is necessarily partial, should have the whole legislature and judicature, no civil liberty could possibly exist. Partial laws, in this case, according to Montesquieu, would be enacted in order to be partially applied and executed; and errors committed in one form could not receive correction in any subsequent form of proceeding in the state.

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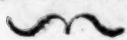
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But, although such dangerous accumulations of power be avoided, and the great principles of order, resulting from the just authority of government and the privileges of the people, be admitted in form, they are not in effect secure otherwise than as the forces of the state are properly adjusted to give them effect. Law without force, is no more than a dead letter; and force, if improperly lodged, will frustrate all the precautions of a legal establishment. It is not less dangerous in the hands of a profligate rabble who would level the conditions of men, than it is in the hands of an usurper who would render them subject to his will. In order to obviate the danger from either of these quarters, the same guard that is or ought to be set over the sources of the legislative power, namely, that every respectable order in the state may have a proper share in it, and every improper person be excluded from the trust, ought also to be set over the distribution of arms or of force in the community. Where the law originates, there also is the proper depositary of the national force; and whoever has not the proper interest in the laws of his country is but ill entrusted with its defence.

In ordinary times, military service, like the professions of law, divinity, or medicine, may be entrusted to persons who make it an honourable calling. But, it does not by any means follow, that they who have a real stake in the preservation of an order established should forego the use of arms, and profess their inability to defend themselves or their state upon any emergence whatever. Or, if this should be thought necessary, at any period of national progress, we cannot any longer be at a loss to account for the vicissitudes

cifitudes of human affairs, or the fatal reverses in which the established order of ranks is sometimes overturned *.

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The magistrate, in republican governments, is called to account at the expiration of his office; and even the monarch, whose office does not expire but with his life, may be called to account in the person of his ministers: But the ultimate and essential security to liberty, or guard against the disorders which are equally fatal to the state of the magistrate as to the privilege of the people, is the character to be retained by those who have any considerable stake in the welfare of their country, a character by which they are qualified, in the last resort, to defend as well as to fulfil the ties of their station. Public benefits enjoyed by one order of the community, and the defence of them entrusted to another, is indeed an abuse, against which mankind have not perhaps yet any where found a permanent guard.

Such, however, are part of the reflections into which we are led in search of means for the preservation of just government, as well as precautions, which render executive power in the most extensive dominions, consistent with the freedom of the people.

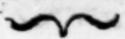
Upon the faith of such expedients as we have now mentioned, we may venture to deny that despotism is necessary to the preserva-

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* The present order of things in Europe originated in the ascendance of persons having arms in their hands. What was originally a cavalier or military horseman, is now a gentleman; and, in the constitution of our own country, members returnable from the counties to parliament, as appears from the remaining form of the writ addressed to sheriffs for this purpose, were to be military†; none being thought worthy of a place in the councils of state, but such as were armed for its defence.

† *Miles gladio cinctus.*

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tion of order in the most extensive dominions. It is indeed more difficult to preserve liberty in great empires, than in states of a moderate extent; because they who are entrusted with the necessary powers, in such instances, ever struggle against the precautions of freedom as inconsistent with the energy of government.

For this reason, it is a principal interest of the citizen that the extent of his country should remain within reasonable bounds, accessible to justice in all its parts, without the exercise of a force dangerously constituted even for the authority that employs it, and too often understood to be turned at discretion against those it is destined to protect.

The security of justice is, in every state, the great interest of all parties, whether the governing or the governed; and whoever wishes to have it in his power to do wrong, whether the subject who would be exempt from the restraints of government, or the magistrate who would be exempt from the restraints of law, however little either propose to use his exemption, may, from the very desire to possess it, be considered as an enemy to mankind.

SECTION

S E C T I O N X I .

Of National Felicity.

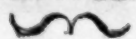
I N this attempt to solve the political problem, respecting what the citizen ought to wish for his country, we have not entered into any discussion of the comparative advantage of different forms of government, as they are commonly enumerated, under the titles of *democracy*, *aristocracy*, or *monarchy*. In the first, the sovereignty is exercised by a majority of the people in their collective assemblies ; in the second, by a part or superior class of the people, hereditary or elective ; and, in the third, by a monarch or single person, conducting his administration by proper officers, and agreeably to general rules or fixed laws which he himself may have laid down.

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To these legal forms susceptible of justice and wisdom, other three have been sometimes added ; namely, *Ochlocracy*, in which the people govern by tumults rather than regular assemblies. *Oligarchy*, in which a few, without any genuine title of estimation or election, usurp the government. And *Tyr-*

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rany, in which a single person governs according to his occasional will, without any fixed rule or general laws. These, indeed, are rather the abuses nearest to each of the regular forms, than constitutions having any pretence to the choice or approbation of mankind in any case whatever.

It appears to be the will of providence, that wherever there is society there should be government also; and, whatever be the government, it is the nature of man to accommodate himself to its forms, not always indeed with perfect contentment, nor always the reverse; but he is affected in this, as in other parts of his lot, according to the humour he is in, not according to any precise state of his fortune.

Monarchy has its admirers, as well as democracy; and it were vain, in most instances, to propose to the subject of either a sudden change from the one to the other. Each is best fitted by his inclinations and his habits to the situation in which he is educated. It may therefore be asked, to what purpose perplex ourselves with questions on a subject in which our state is already determined? We come with our schemes of what is best for mankind, like an architect with his plan after the house is built, and the lodger fitted to his mind. To dislodge him for the sake of eventual improvements, would be at least to incur immediate calamity and distress, without any assurance of future advantage.

To the question, that may be asked in any particular case, To what government we should have recourse, or under what roof we should lodge? The first answer, no doubt is, *The present!* Nay, but the present government may have its defects, as the walls or roof of the building in which we lodge may be
insufficient,

insufficient, or threaten to fall on our heads. Then, set about the necessary repairs. In respect to your dwelling, the walls may be renewed or rebuilt in parts successively; and, in respect to the administration of government, grievances may be redressed. But, in respect to the one, it is a wise maxim; *Beware you take not away so much of your supports at once as that the roof may fall in*: Or, in respect to the other, Beware you do not overthrow so much of your government at once as that the innocent have no protection against those who may be disposed to the commission of crimes.

This caution, indeed, it may be difficult to apply in every case. In some instances, it may be said of our dwelling, that the roof is actually falling, and the whole must be taken down: In respect to our political situation, that the oppression of a despotic power, whether in the person of one or many, is incorrigible, and must be cut short at once; for, while any measure of such power remains, no reform can be obtained.

It is indeed the nature of extreme evil to be surrounded with calamities on every side; insomuch that, in guarding against mischief of one kind, some other must be incurred. And, although it may happen that the last remedy of a political evil, like a surgical operation, may be attended with more pain than was inflicted by the disease in any equal portion of time, still the operation nevertheless is to be preferred to a perpetuity of the complaint.

As to the choice of a political establishment, could we suppose nations acting wisely in pursuit of public order and freedom, as defined in the foregoing sections, it is probable they would proceed to somewhat different from either of the simple forms we have mentioned.

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The members of any community have never been found in such a state of equality as not to have a distinction of ranks, to the safety of which it is required that they should have each a distinctive share in the legislature of their country. Nor is it safe for the subject, of any denomination or class, to commit the enactment, as well as the execution of the law to any single power. Hence we may assume, that, in pursuit of the political advantage in question, a fortunate people will adopt some mixed rather than any of the simple forms.

The character of government is frequently taken from the executive power; and this, in consistence with all the advantages we have mentioned, may be either a select council, or magistrate; a single person or monarch, hereditary or elective: And nations governed by any such powers have not occasion to change them, if at the same time they are fortunate in the constitution of the collateral, legislative, and judicative forms.

Where this is the case, there is greater danger from change than from any trivial inconvenience attending the actual order of things. And it may be safely assumed as a maxim under every establishment whatever, That the present order, if tolerable, is to be preferred to innovation, of which, even in very small matters, it may be difficult, and is often above the reach of human wisdom, to foresee all the consequences or effects.

Grievances, nevertheless, under the fairest government, may take place, and must be redressed; and whoever has a grievance to plead must be heard; whilst he who, without any complaint of grievance, has gone forth in search of speculative melioration, or improvement, not absolutely required to the safety of his country,

try, is to be dreaded as a most dangerous enemy to the peace of mankind. He would, without necessity, unsettle the minds of men on a point on which it is highly expedient they should never be unsettled, to wit, the reality of an actual authority to which they are bound to submit in all cases that concern the peace and good order of their country.

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Here, however, it must be admitted that, where men are least disposed to innovation, changes imperceptibly arise, whether in the ordinary course of things, as in the progress of arts, or in the succession of events. And, as men are the actors in this political scene, whether seemingly stationary or transient, it behoves them to know the good of which they are susceptible, and the evil to which they are exposed. The sceptic may contest any serious distinction in this matter; and, as men are so variously accommodated, insist that every age or nation should be left to please itself. The slave, we are told, is often more chearful and gay than his master, and the subject of absolute monarchy more undisturbed, than the citizen of a fair republic: And if we reason from the tastes of men, we must leave every one to chuse for himself. This is pleaded in matters of private as well as public felicity; but, so long as human nature has its visible destination, in the perfection or excellence of which it is susceptible, we must be allowed to scrutinize the tastes as well as the attainments of men.

When, under one species of establishment, we observe the persons and possessions of men to be secure, and their genius to prosper; under another, prevalent disorder, insult, and wrong, with a continual degradation or suppression of all the talents of men, we cannot be at a loss on which to bestow the preference.

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*For forms of government let fools contest:
The best administer'd is always best.*

Thus sings the poet : But, in order to justify the charge of folly he has brought in this couplet, he ought to have sung also, that one form of government is as likely to be well administered as another ; or that men are no way the safer for having it in their power to check the infringements which may be attempted on their rights.

If it be required to continue this argument beyond what has been already offered on the subject of population, national resources and liberty ; a few observations may be indulged on the subjects of wealth, public peace, and good order, on which men are commonly inclined to estimate the felicity of nations.

Of these, indeed, some may be considered as the symptoms, others as the invariable constituents of national happiness.

Wealth is at least the symptom of national felicity, so far as it argues the presence of *industry, frugality, and skill*, with the *security of property*, and a *regular administration of justice*. These are the appurtenances of public virtue, and, as such, the constituents of good to mankind.

But, if we suppose wealth to come from any other source than these ; or, to come as it does to conquering nations, by rapine, and to the courts and capitals of great empires, by the oppression of provinces ; it is not, in respect to its source, or in respect to the effects it is likely to produce, either symptomatic, or productive of any national good whatever.

As

As riches give scope to evil passions, and, where obtained by injustice, argue the presence of such passions, they are a symptom of misery rather than of happiness: They are productive of prodigality, licentiousness, and brutal sensuality. Such was the misery, not the felicity of Rome, become the capital of a great empire, a centre to which the wealth of nations was collected, and at which it was consumed in gross sensuality, or in cruel and idle ostentation of power.

It were folly, therefore, to felicitate a nation on the measure of its opulence, the extent of its territory, the multiplicity of its conquests, or the profusion of wealth that may run to waste in its capital, without regard to the origin or use of these advantages.

The tendency of human affairs in the result of prosperity, indeed, is to enlargement of empire; and it is difficult to restrain this tendency without a risk of misfortune on the opposite extreme. In the contest of nations, it happens sometimes that, of contending parties, either must conquer or be conquered; but it is evident that although, in the struggle of two or more nations for security or independence, the event may give to either a dangerous ascendant; yet they ought not to indulge a wish beyond that of safety to themselves. And, in the midst of such dangers, the best doctrine that can be inculcated on the minds of men, is a decided opinion that conquest is no advantage to those who make it, any more than to those over whom it is made.

War is justly avoided, and peace among mankind is admitted to be a supreme object of consideration and desire: But we must not therefore enjoin it as an article of wisdom for nations to dis-

continue

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continue their military policy, and to neglect preparations for their own defence. These are often the surest preservatives of peace, and, joined to a scrupulous attention to abstain from wrongs or unnecessary provocations, are all that the most pacific nation can do to avoid the mischiefs of war. Peace is recommended as an article of wisdom; and the wise do not recur to war as the means of acquisition, but as the means of preservation or safety. But war may be necessary, although it be not desirable on its own account; and it were folly, in reasoning of mankind, to consider the time of necessary war among nations as a period of misery, or the time of peace as of course a season of happiness. In either conjuncture, the vices and follies of men may predominate; but, in either conjuncture, also, men have occasion to exercise their best affections and faculties: and, by this alone, the prevalence of good or ill, of public happiness or misery, can safely be determined. It is the will of providence, that men have occasion sometimes to maintain the cause of their country against its enemies; and, in so doing, the virtues of human nature are its happiness, no less than they are so in reaping the fruits of peace.

With respect to internal tranquillity, it is surely a blessing for citizens to be exempt from injury, be the quarter from which it come what it may; and this alone is to enjoy peace. But, to be exposed to wrongs, without any power of defence or resistance, is not peace, but war that broods on the mind with animosities of the most rancorous kind. Such a war in the dominions of despotic empire is termed peace and tranquillity; but the wrong that is done in such instances to the passive sufferer, like every other evil, is just so much the worse that nothing is done to counteract or redress it.

The

The war that subsists in despotical governments, between the oppressor and the oppressed, consists of injury, indeed, all of one side; but, in having wrongs endured without remedy is so far from approaching to peace, that the necessity of tame and helpless submission imposed by the party oppressing on the party oppressed, is either felt as an accumulation of injuries, of which the first aggression is but a part; or, in being tamely endured, and received with sentiments of fear rather than resentment, it compleats the debasement of those by whom it is suffered.

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It is not so much the physical evil which a tyrant may inflict either in respect to the person or property of his subject, that aggrieves the liberal mind, as the idea held forth under the despotical government, that, whilst one has a right to inflict such evils, the other is bound to suffer at discretion. The disciplined soldier or sailor is exposed to suffer much more from an enemy than from the most severe or capricious will of an officer who is disposed to abuse his command; yet he contends against an enemy with an alacrity and even gaiety of spirit and of courage, while he sinks under the caprice of the other with dejection and sorrow.

The pretension of a right in any one to absolute dominion, or to a property in his fellow creature, was the evil from which Cato withdrew at Utica, and from which the worthiest citizens of Rome, under the successors of Cæsar, continued to withdraw, after repeated endeavours to reconcile themselves to the station in which they were placed. "It does not become me to defer any longer," said Aruntius, who, being threatened with a prosecution from the agents of Tiberius, was importuned by his friends to await the end to which the declining age of the tyrant was fast approaching,

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approaching, "I have already delayed too long in the midst of dangers, insults, and the mockery of justice. If I should survive the old age of one tyrant, what better prospect awaits me in the youth of his successor *."

It was the idle assumption of discretionary power, originally, perhaps, in matters of small moment, not any flagrant acts of oppression or cruelty, that roused the spirit of our ancestors to a revolt, which, after a succession of mutual provocations, and the interference at last of desperate adventurers, ended in the murder of one of the most innocent of our kings.

The claim of a right to govern at discretion, until it have produced some effect, may be no more than a form of words: If it operate only in acts of beneficence, such discretion is beloved, and is indeed vested in every person alike; but, so soon as it appears in mischief, the pretence of a right to do wrong is absurd; and any such assumption, with the prospect of indefinite abuse, is itself an act of hostility against which the spirits of men revolt more than against any physical harm that may proceed from violence or occasional passion.

Next to the entire absence of hostility, or a perfect exemption from injuries, we may reckon among the constituents of peace the just powers of redress, or even resistance, which the constitution of just government employs in behalf of the injured.

The passions of men may produce assault and provocation, under any system of human policy; but, in mere assault, there is but one injury, of which the effect is greatly abated in being resistible, as well as in the means of reparation which are provided.

* Tacit. Annal. lib. vi. c. 48.

vided. And we are not to estimate the evils incident to society so much from the personal sufferings that may be occasionally incurred even under the freest government, as from the suppression of every claim to redress which compleats the tyranny that is exercised by a despot, or by the disorderly tumults of a corrupted people.

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Men are destined to play in human life for manifold stakes of unequal importance. The merchant plays for profit, and is exposed to loss. The warrior plays for victory or conquest, and exposes his life. Every one who would better his situation in point of fortune, preferment, or honour, hangs in suspense between the opposite events of success or disappointment. What was staked among the ancients, in their national quarrels, was of greater importance than is risked at war by the officer or soldier in any modern nation of Europe. When captives or prisoners of war were retained in servitude, or sent to the market for slaves, the soldier exposed not only his life but his personal freedom also. This violation of natural law was enforced by the Romans in all their wars, and by the Greeks put in practice in their contests not only with barbarous nations, but even with one another. "During the Peloponnesian war," says an eminent writer, "and for many years after its conclusion, all the different republics of Greece were, at home, almost always distracted by the most furious factions, and abroad involved in the most sanguinary wars, in which each sought not merely superiority of dominion, but either compleatly to extirpate all its enemies, or what was not less cruel, to reduce them into the vilest of all states, that of domestic slavery; and to sell them, man, woman, and child, like so many herds of cattle to the highest bidder in the market."

If

* Vid. Theory of Moral Sentiments, by A. SMITH.

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If, from this account of the Greeks, it be proposed to infer that they were a wretched people, there is reason to question the truth of any such inference. The fortunes of men do not always decide of their feelings. Cervantes, we are told, wrote his adventures of Don Quixote in a prison; and, from so vigorous an exercise of all his faculties in that situation, we have reason to conclude that a person may be in jail without being wretched. The human mind gave similar proofs of felicity no where more conspicuous than in Greece. And if human life be compared to a game, it was played among ancient nations, and among the Greeks in particular, upon a stake no less indeed than is stated in the above passage, of freedom as well as life. But their example should lead us to think that the spirits of men are not greatly damped by the risks which they are made to run in the service of their country. The first citizens in every Grecian state, with this prospect of eventual slavery before them, took their post with alacrity in the armies that were formed for the defence or advancement of their country: And in no quarter of the world was the military character held in higher esteem. Those nations, at the same time, in other respects, carried marks of felicity superior to what has ever been displayed in any other quarter of the world or age of mankind. In their very language, there is evidence of genius, or intellectual ability, superior to that of other nations. The order and form of their expression kept pace with the order and discrimination of subjects to be expressed, with all the possible varieties of relation, and with all the subtilities of thought and sentiment, beyond what is exemplified in any other known instance. They led the way also in all the forms of literary composition or discourse, under which the human genius is displayed. Their poets, historians, orators, and moralists, preceded those of other nations, and remain

remain unequalled by those that came after them. Their sculptors, painters, and architects, excelled those of every other nation; and the same genius which rose towards every object, in which excellence or beauty could be required or exhibited, gave also the most masterly examples of civil, political, or military virtues; and, in the whole, gave the most irrefragable evidence of minds no way sunk by the sense of oppression, or the gloomy prospect of hazards impending from the loss of liberty, or the fear of slavery to which they were exposed. The ease and alacrity with which they moved on the highest steps of the political, the moral, and intellectual scale, abundantly shewed how much they enjoyed that life and freedom, of which they were so worthy, and which they so freely risked in the service of their country. And if the hazard of blessings which they staked in every public contest had at all any effect on their minds, their example may serve to prove, that men are not unhappy in proportion to the stake for which they contend; or, perhaps, what is verified in the case of other players as well as in theirs, that persons who are used to a high stake cannot condescend to play for a lower; or that he who is accustomed to contend for his freedom or his life can scarcely find scope for his genius in matters of a lower concern.

A warden of the English marches, upon a visit to the court of Scotland, before the accession of James to the throne of England, said he could not but wonder how any man could submit to so dull a life as that of a citizen or courtier: That, for his own part, no day ever past in which he did not pursue some one for his life, or in which he himself was not pursued for his own. It is the degradation of fear, the guilt of injustice or malice, to which the mind of man never can be reconciled; not the risks to which the liberal may be exposed in defending his country, or in withstanding iniquity.

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We are, for the most part, ill qualified to decide what is happy or miserable in the condition of other men at a distance. The inconveniences, which we see, may be compensated in a way which we do not perceive. And there is in reality nothing but vileness and malice that cannot be compensated in some other way. Even those we call slaves are amused in the performance of their task, and, when it is over, are observed to be playfome and chearful beyond other men. They are relieved of any anxiety for the future, and devolve every care on their master.

We estimate the felicity of ages and nations by the seeming tranquillity and peace they enjoy; or believe them to be wretched under the agitations and troubles which sometimes attend the possession of liberty itself. Under this apprehension the forms of legislature we have proposed implying numerous assemblies, whether collective or representative, may be censured as exposing men to all the inconveniencies of faction or party division; but, if these inconveniencies are to be dreaded, they nevertheless may be fairly hazarded, for the sake of the end to be obtained in free governments, the safety of the people, and the scope which is given to all the respectable faculties of the human mind.

If we have not mistaken the interests of human nature, they consist more in the exercises of freedom, and in the pursuits of a liberal and beneficent soul, than in the possession of mere tranquillity, or what is termed exemption from trouble. The trials of ability, which men mutually afford to one another in the collisions of free society, are the lessons of a school which Providence has opened for mankind, and are well known to forward, instead of impeding their

their progress in any valuable art, whether commercial, elegant, or political.

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Under the last of these titles, more especially, we had occasion to observe, that the most important objects of human concern, and the most improving exercises of ability, are furnished to the members of a free state*: And we may now also assume that forms of government may be estimated, not only by the actual wisdom or goodness of their administration, but likewise by the numbers who are made to participate in the service or government of their country, and by the diffusion of political deliberation and function to the greatest extent that is consistent with the wisdom of its administration.

While those who would engross every power to themselves may gravely tell us, that the public good consists in having matters ordered in the manner they conceive to be right, we may venture to tell them in return, that it consists still more in having proper numbers admitted to a share in the councils of their nation: That, although the proverb in a particular instance should fail, and the *multitude of council for once be inferior in wisdom*, yet the multitude of council is really in itself a greater public advantage, than the talents of any single person, however great, can otherwise procure for his country. Single men may chuse a measure, or conduct a particular service, better than might be obtained in any concurrence of numbers: But numbers do more in a succession of ages, than any single man could obtain; and man nature is more interested in having nations formed to the character of manhood and public virtue, than it is in any particular measure of conduct, or the most successful attainment of any particular object.

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* See Vol. I. Section, Of the Political Arts.

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We are sometimes checked in the commendation of free constitutions of government, by an observation that party divisions are most flagrant in such instances, and the turbulence of free states is contrasted with the seeming tranquillity of despotical government, as an evidence that it is happier for mankind to be governed at discretion, than to be indulged with freedom, or be admitted to any share in the government of the community of which they are members. But we have already considered what is to be thought of a peace or tranquillity, which consists of injury all of one side, and which is followed by the denial of redress or impossibility of resistance.

Wherever men are free to think and to act, errors will be incurred, and wrongs will be committed: But the error that results from the freedom of one person is best corrected by the wisdom that results from the concurring freedom of many. And the crimes of a few lose their effect in the resistance they meet with, or in the means of redress that is provided for them: But for the errors or crimes of a despotic master, or the violence of a disorderly populace, there is neither correction nor redress: It is sedition, or heresy, or madness, to dispute their opinions, or to resist their power.

In free states, even where men do not act from any culpable defect of understanding or criminal disposition, they are seldom all of one mind, on any subject whatever. The conversation of good men very often takes the form of debate or controversy; and it is indeed in this form they are most likely to receive from one another mutual instruction and improvement of thought.

thought. The freedom of conversation, therefore, whether relating to matters of public deliberation or private concern, is at once a symptom of just as well as of vigorous government: And on this subject we may venture to observe, by the way, that the zealots for liberty sometimes mistake their aim in supposing that they cannot exceed in weakening the powers of the magistrate, or in taking measures to restrain him, by which they would scarcely leave him enough for the suppression of crimes. So reduced, he is jealous of the most innocent freedoms, and dreads a too familiar inspection of his measures as want of respect to his person or his state. Hence the citizen is obliged to be more guarded in his talk at Berne or at Venice, than he was at Paris, even when the Bastile remained yet undemolished. In vigorous governments, whether pure or mixed, and under the administration of magistrates who have nothing to fear from the discussion of private companies, or even the impertinence of mistaken censure, there is frequently great freedom of speech as well as thought.

It has been observed, in a former part of this work, that it is wisely ordered in this school of intelligence, which is opened for man in the scene of nature, that there should be obstructions and difficulties to be met with, adequate to the power with which he is furnished, and fitted to give these powers their full exertion, whether in producing mere physical effects, in carrying his fellow creatures along with him, or in surmounting the impediments which they mutually furnish in the course of their oppositions. And in closing our view of the subject we may now observe, that the congregation of men is not, in any instance, to be considered as an aggregate of still or quiescent materials, but is a convocation of living and active natures: That the order of which they

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they are susceptible is not merely, like stones in a wall or an arch, that of relative position and place, but of activity, and of co-operation in different functions, or of balance, counterpoise, and mutual correction, where the operation of any single power might be partial and wrong, but the general result is salutary and just.

Such is the living order of nature throughout ; and the amount of this argument, relating to the felicity of nations, may be summed up in these comprehensive though vague expressions, That the felicity of nations is proportioned to the degree in which every citizen is safe ; and is most perfect where every ingenuous or innocent effort of the human mind is encouraged ; where government devolves on the wise ; and where the inoffensive though weak is secure.

In societies that approach the nearest or recede the farthest from this description, the individual may, in his own part, be either wretched or happy. Clodius was a wretch in the abuse of a freedom which he took up in the midst of disorder and faction ; and Helvidius or Thrasea was happy, though under a tyranny by which their country was oppressed. Every one indeed is answerable only for himself ; and, in preserving the integrity of one citizen, does what is required of him for the happiness of the whole.



THE END.